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UNIVERSITY OF ALBERTA

THE ALBERTA AND GREAT WATERWAYS RAILWAY DISPUTE, 1909-1913

by

JAY STEWART HEARD

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND

RESEARCH IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR

THE DEGREE OF MASTER OF ARTS

DEPARTMENT OF HISTORY

EDMONTON, ALBERTA

FALL, 1990

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SUBMITTED BY JAY STEWART HEARD

IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS.

R.C. MACLEOD, SUPERVISOR

D.J. MOSS, COMMITTEE CHAIRMAN

J.A. EAGLE, COMMITTEE MEMBER

E.J. CHAMBERS, COMMITTEE MEMBER

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ABSTRACT

The Alberta and Great Waterways Railway was the subject of one of the most divisive political disputes ever to occur in the province of Alberta. The dispute laid ruin to the seemingly invincible majority that Premier A.C. Rutherford entered the February 1910 session of the legislature with; it also led directly to the resignation of several prominent cabinet ministers in Rutherford's government, including the Premier himself. Although the height of the contest over the A. & G.W. was reached during Rutherford's administration, the government of his successor, A.L. Sifton was also plagued by the controversy. It was not until the September 1913 session of the legislature that the A. & G.W. controversy was finally laid to rest.

This thesis is a study of the various transformations that the A. & G.W. dispute underwent as it evolved from February 1910 until September 1913. The controversy cannot be understood without some reference to the contract that the government made to have the A. & G.W. built, however, the primary focus of this thesis is the political fallout from the dispute, rather than the actual business of the railway.

This thesis has been divided into three main sections. The first section deals with the debate in the legislature that followed the initial outbreak of the A. &

G.W. dispute. The second section examines the Royal Commission that was struck to investigate the government's A. & G.W. deal. The final section covers the legal battles that the province fought in an effort to extracate itself from its A. & G.W. contract.

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INTRODUCTION

The Alberta and Great Waterways Railway Company (A. & G.W.) was incorporated by an act in the provincial legislature on February 25, 1909.[1] The Alberta government incorporated the railway as part of a larger policy to encourage railway expansion in the province. It was an innocuous beginning for a railway that would later be dogged by controversy.

Alberta received provincial status in 1905 and the expense of establishing a government and bureaucracy prevented the province from encouraging railway development in the years immediately after 1905. By 1908, however, it was apparent that while the Dominion would assist transcontinental lines, the burden would fall to the provinces to assist local or branch lines. Thus, the Alberta government would have to assist the construction of any line from Edmonton to Fort MacMurray without help from the Dominion government.

The Alberta government was also unable to interest the Canadian Northern Railway (C.N.R.), Grand Trunk Pacific Railway (G.T.P.), or Canadian Pacific Railway (C.P.R.) in the construction of a railway from Edmonton to Fort MacMurray. The transcontinental lines were already over-

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[1] Statutes of the Province of Alberta Passed in the Fourth Session of the First Legislative Assembly, 1909. pp. 321-324.

extending their resources or dubious about the prospects of the line paying for itself, or both. In any event, it became apparent that if the government wanted the line built it would have to contract with independent promoters. Thus, the Alberta cabinet was prepared to listen when W.R. Clarke and A.C. Bowen approached them regarding the prospects of building a railway in northern Alberta. The government was prepared to deal with these previously unknown American promoters because it did not have any viable alternatives.

While the transcontinental railways doubted the necessity of a railway from Edmonton to Fort MacMurray, the Alberta government did not. The province was receiving a tremendous influx of settlers and the government foresaw the day when there would be little available land in the southern parts of the province. A railway was deemed necessary in order to open the north for settlement. A railway could both create and provide access to a northern empire. The government believed that the construction of such a line would result in growth and prosperity for all of the province, and not simply the north.

Enthusiasism for the line was, however, short lived. The optimism that surrounded the legislature in the February 1909 session was replaced by outrage as the February 1910 session began. It became apparent that the government had been more generous in the terms that it

offered Clarke than it had been with other lines. The government was accused of stupidity, at best, and graft and corruption, at worst. A.C. Rutherford's once strong majority was badly divided on the issue and the House adjourned in disarray.

A Royal Commission was appointed in an attempt to discover what, if anything, went wrong in the government's A. & G.W. deal. The commission heard evidence from the end of March until the beginning of July. Rutherford, for one, did not wait for the commission's report. He resigned as Premier of the province on May 26, 1910. Although the commission later exonerated him of any wrongdoing, Rutherford's political career in the province was effectively finished.

The Royal Commission actually provided very little insight into the A. & G.W. affair. To be fair, it was hampered by the refusal of W.R. Clarke to provide testimony at its hearings. It was more severely hampered, however, by the often incomplete examinations it made of witnesses who did testify. In addition the commission heard as much testimony, if not more, about the internal workings of the Athabasca Railway Syndicate, the Alberta and Great Waterways Railway Company and the Canada West Construction Company as it did about the involvement of government members in the affair. Although the commission heard over 3200 pages of

testimony, the testimony was often incomplete or lacked focus.

A.L. Sifton became Premier of Alberta in the wake of Rutherford's resignation. The debate in the legislature during his tenure as Premier was not nearly as emotional or divisive as the debate in the previous legislature had been. Nonetheless, the A. & G.W. continued to be a controversy for the Sifton administration just as it had been for the Rutherford administration; the battleground for much of the controversy simply shifted from the legislature to the courts. The legal battles that entangled the A. & G.W. proved to be very long and drawn out. A final decision was not offered until January 31, 1913. In fact, the province's position with regard to the A. & G.W. was not finally clarified until the September 1913 session of the legislature. While construction on the line began again late in 1913, it was not until the end of the decade that the A. & G.W. would approach Fort MacMurray.

Before proceeding with an analysis of the Alberta government's involvement with the A. & G.W. it is important to consider the circumstances of the time in which the government contracted to have the line built. The dawn of the twentieth century was a time when the opportunity for growth, development and prosperity in Canada seemed limitless. D.J. Hall has noted:

> The God of the young twentieth century was Progress, and his prophet was Laurier....The Gods indeed smiled warmly upon the Dominion in those years, and the Priestly Order of Material Growth and Prosperity -- Laurier's Cabinet -- took full credit for the heavenly beneficence. Never since Confederation had optimism and confidence taken such hold.... Haste and excessive optimism produced decisions dubious in their long term effects upon the country. But Laurier and his cohorts captured the mood, hearts and votes of the country, while the opposition languished, colourless and divided.[2]

The optimism that characterized the early twentieth century in Canada must also be related to the concept of boosterism. Boosterism has been defined by Paul Voisey as, "...the campaign to stimulate economic and population growth by advertising, lobbying, and offering incentives to development."[3] It was ideally suited to the heady times that Canada was experiencing at the outset of the twentieth century. Although much of the work done on boosterism has been issue or location specific, there are

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[2] D.J. Hall, Clifford Sifton: A Lonely Eminence 1901-1929 (Vancouver: University of British Columbia Press, 1985) pp. 77-78. R.C. Brown & Ramsay Cook, Canada 1896-1921: A Nation Transformed (Toronto: McClelland & Stewart, 1974) pp. 49-82 is a good survey of these prosperous times.

[3] Paul Voisey, "Boosting the Small Prairie Town, 1904-1931: An Example From Southern Alberta," in Town and City, ed. A.F.J. Artibise (Regina: Canadian Plains Research Center, 1981), p. 147.

general conclusions that may be drawn about it.[4]

Voisey's work indicated that boosterism was easily practiced in small towns even though it has more often been associated with cities or larger towns. He also indicated the important role that the anticipation of railway construction played in boosting a small town. As he stated, "A glittering future depended entirely on steel rails, and some hamlets arose solely in anticipation of the railway."[5]

Much of Voisey's work concentrated upon the specific forms that boosterism took in the Vulcan area. His general conclusions about boosterism may be applied, however, to virtually any area on the prairies at the turn of the century. In Voisey's words:

> It [boosterism] both shaped and revealed pioneer attitudes in a variety of ways. Most often it expressed the unbridled optimism of frontiers generally and western Canada in particular....if optimism failed to graft itself to one particular town, it remained always strong; should the boom falter in one place, it would surely revive wherever railway construction created new townsites.[6]

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[4]A.F.J. Artibise and G.A. Stelter, Canada's Urban Past: A Bibliography and Guide (Vancouver: University of British Columbia Press, 1981) is a good basic source for work on boosterism, among other things.

[5]Voisey, "Boosting," p. 148. The same argument was repeated with a nearly identical quote in Voisey, Vulcan: The Making of a Prairie Community (Toronto: University of Toronto Press, 1988), p. 54. He noted that Premier Rutherford expected four railway lines to service the Vulcan area.

[6]Voisey, "Boosting," p. 163.

It is also important to note his conclusion that while some boosters were able to promote their community, others failed miserably. A booster mentality may have been characteristic throughout western Canada at the turn of the century but in many cases it was unsuccessful.[7]

The work of A.F.J. Artibise has tended to concentrate upon boosterism with regard to Canadian cities. Like Voisey, however, his words can be equally well applied to boosters who encouraged the promotion and construction of railways in the first decade and a half of the twentieth century. He has noted that:

> The booster mentality was made up of a web of beliefs and attitudes, but a few stand out above the others. The most important parts of the mental baggage of the boosters were a belief in the desirability of growth and in the importance of material success....They set no limits on their expectations and were intensely optimistic, expansionary, and aggressive....There was no room for sceptics or, as they were often called, "knockers." Indeed so powerful was the booster psychology of the civic and business leaders that few... rose to challenge their leadership. Throughout the period, boosterism of the many overshadowed the caution or opposition of the few...Nearly everyone was infected with the boom psychology.[8]

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[7]Voisey, "Boosting," p. 171.

[8]A.F.J. Artibise, "Boosterism and the Development of Prairie Cities," in Town and City, pp. 213-215.

A major component of the optimism about Canada's growth and prosperity was based upon the developmental prospects of the prairies. The population of the prairies was rapidly increasing and the amount of railway mileage being constructed was also on the rise. O.D. Skelton has noted that, "The first result of the swarming of thousands to the West was a demand for new railways, to open up plain and prairie and mineral range, and to make connection with East and West."[9] Railways and settlement were frequently believed to feed upon one another. Immigrants settled close to existing rail lines, while the resulting increase in population brought an increased demand for more railways.

The demand for more railways resulted in the construction of the C.N.R. and the G.T.P. in order to provide competition to the transcontinental service of the C.P.R. The Laurier government attempted to encourage cooperation between the promoters of the C.N.R. and the G.T.P., but eventually it had to acknowledge that the lines would only be constructed on competitive, not cooperative, terms. Although it is questionable whether or not Canada actually needed two new transcontinental lines, the optimism of the day dictated that the lines were, in fact, necessary. It was expected that very soon Canada would boast a large

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[9] O.D. Skelton, The Railway Builders: A Chronicle of Overland Highways (Toronto: Glasgow, Brook and Company, 1916), p. 182.

enough population to allow both the C.N.R. and G.T.P. to not only survive, but also flourish.[10]

The amount of railway mileage constructed in Canada at the outset of the twentieth century was staggering. In addition to constructing their main transcontinental lines, the C.P.R., C.N.R. and G.T.P. all embarked on extensive campaigns to construct branch lines. There was also considerable work done in double tracking the main lines.[11] By 1914 Canada had three national transcontinental railways and nearly ninety smaller railway companies. Only five other countries had more railway milea than Canada and none had the amount of mileage per capita.[12] Thus, railway construction played an integral part in the optimistic spirit of the day. People considered railways necessary to tap potential prosperity and at the same time optimism increased as railways were constructed.

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[10]Skelton, The Railway Builders, pp. 182-189; W.A. Mackintosh, Economic Problems of the Prairie Provinces (Toronto: Macmillan Co. of Canada, 1935), pp. 33-42; G.P. de T. Glazebrook, A History of Transportation in Canada (Toronto: Ryerson Press, 1938), pp. 313-316; T.D. Regehr, The Canadian Northern Railway (Toronto: Macmillan Co. of Canada, 1976) pp. 188-93; & Hall, Clifford Sifton pp. 79-80.

[11]H.A. Innis, A History of the Canadian Pacific Railway (1923; rpt. Toronto: University of Toronto Press, 1971), pp. 151-158; Regehr, The Canadian Northern, pp. 187-219; & J.A. Eagle, The Canadian Pacific Railway and the Development of Western Canada, 1896-1914 (Kingston-Montreal: McGill-Queen's University Press, 1989), pp. 100-107.

[12]Skelton, The Railway Builders, p. 240.

This boom in railway construction was greatly aided by government assistance, although the form of the assistance had changed from the time of the construction of the C.P.R. The C.P.R. had received land grants, which the company sold in order to finance the construction and operation of the line. While this form of government assistance had been in vogue in the late nineteenth century, it was no longer viewed as acceptable at the outset of the twentieth century. The acceleration of settlement brought objections to land grants as a form of government subsidy. Increasing outcries about land monopolies were heard with reference to railway land grants. Land that was earmarked for railways was necessarily reserved and kept out of the grasp of homesteaders. No new land grants were offered to railways in Canada after 1894. The process of selection of lands already granted was gradually eliminated early in the twentieth century.[13]

The end of railway land grants did not mean the end of government assistance to railways. It simply meant that government assistance was to take a different form. The most common form of assistance that arose to replace

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13 J.B. Hedges, The Federal Railway Land Subsidy Policy of Canada (Cambridge: Harvard University Press, 1934), p. 117; W.T. Jackman, Economic Principles of Transportation (Toronto: University of Toronto Press, 1935), pp. 38-39; T.D. Regehr, "William Mackenzie, Donald Mann, and the Larger Canada," in Western Canada Past and Present, ed. A.W. Rasporich (Calgary: McClelland & Stewart West Ltd., 1975), pp. 71-72; & Hall, Clifford Sifton, pp. 58-60.

land grants was government bond guarantees. Government guarantees of bonds made the bonds more readily saleable because they represented added security to the investor. They also presented the least risk on the part of the government. The government would not have to pay anything if a railway was successful; it was only responsible for the interest on the bonds in the event that a railway encountered difficulties and was unable to make its payments. In essence, a government that offered a bond guarantee to a railway was banking on the future success of the line.[14]

Given the optimistic fervor of the day, it was not surprising that bond guarantees were forthcoming from not only the Dominion, but also most provinces. The amounts of the guarantees, like the amount of railway mileage constucted, were staggering. Estimates of the exact amounts of the guarantees are varied. For the purposes of this introduction it will suffice to note that the amounts

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[14]Skelton, The Railway Builders, pp. 191-193; Jackman, Economic Principles, pp. 39-40; Mackintosh, Economic Problems, pp. 36-37; & Regehr, "William Mackenzie," p. 72.

were tremendous.[15]

The Dominion was largely responsible for offering bond guarantees for the construction of the transcontinental lines of the C.N.R. and the G.T.P., while the provinces generally contributed bond guarantees for the construction of branch lines and local lines. There was substantial clamour for the construction of branch lines. Branch lines were rarely, if ever, constructed without the urgings and insistencies of residents hoping to be serviced by a railway. In fact, requests for branch lines tended to outnumber the number of lines that were actually built, even during this boom period of railway construction.[16] Railways that travelled into the hinterlands were frequent requests of settlers and local politicians alike because there remained uncertainty about where branch lines would be built, even after the construction of a second and third

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[15] G.R. Stevens, Canadian National Railways (Toronto: Clarke, Irwin & Co., 1962), p. 57, noted that the C.N.R. received bond guarantees totalling $45,597,584.11 in the years prior to 1905. Skelton, The Railway Builders, p. 192, noted that between 1908 and 1915 the five westernmost provinces had guaranteed C.N.R. bonds totalling over $130,000,000. Mackintosh, Economic Problems, pp. 35-38, noted that by 1920 Manitoba had guaranteed bonds totalling $25,664,000, Saskatchewan had guaranteed bonds totalling $25,582,000 and Alberta had guaranteed bonds totalling $39,634,000.

[16] Regehr, The Canadian Northern, pp. 187-193; Stevens, Canadian National Railways, p. 59; Morris Zaslow, The Opening of the Canadian North 1870-1914 (Toronto: McClelland and Stewart Ltd, 1971), p. 211

transcontinental line was considered a given. As T.D. Regehr noted, "Branch lines, more branch lines, and still more branch lines quickly became the most important economic and political issue of these prairie hinterlands."[17]

When one considers the Alberta government's deal with W.R. Clarke to have the A. & G.W. railway built, it is very important to remember the spirit of optimism and the attitude of boosterism that pervaded much of the country during the first decade and a half of the twentieth century. It is also equally important to remember that railways were, in many ways, associated with growth and success. Optimism and boosterism both fueled, and fed upon, the expansion of railway lines throughout the prairies. Construction of railways could not keep up with demands for the lines.

There was nothing unusual about demands for a line to be built from Edmonton to Fort MacMurray. The provinces generally looked to the C.P.R., the C.N.R. or the G.T.P. to build branch lines throughout the country. In the face of the refusal by the "big three" railways to build the line it should not have been altogether surprising that the government of Alberta decided to contract with an independent promoter to build it. It was only a decade earlier that Mackenzie and Mann of the C.N.R. had been independent promoters themselves. It also should not have

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[17] Regehr, The Canadian Northern, pp. 188-190.

been surprising that the province offered a substantial bond guarantee in order to finance the line; bond guarantees were the order of the day, given that land subsidies were no longer offered.

In retrospect, it is easy to see that the province lacked the secure footing in dealing with the A. & G.W. that it would have had in dealing with any of the C.P.R., the C.N.R., or the G.T.P. Blind optimism, however, is by its very nature both blind and optimistic. In a society where the construction of railways was equated with the prosperity of an area, the Alberta government attempted to bring railways (and by definition prosperity) to an area of the province that would not have otherwise been tapped. It failed. The decision to build the A. & G.W. Railway was a product of the time in which it was contracted. The failure of the line, however, was also a product of the same time, in that the optimistic booster campaigns of the day were not always rewarded positively.

The principal backer of the Alberta and Great Waterways Railway Company was W.R. Clarke, a banker from Kansas City. In the spring of 1908 Clarke sent Arthur Bowen, also of Kansas City, to Alberta to examine possible opportunities for investment. By June 1908, Clarke had acquired an option on the railway charter of the Athabasca Railway Syndicate. He had also received enough encouragement from the Alberta cabinet to warrant commissioning a reconnaissance survey to examine possible routes from Edmonton to Fort MacMurray. Clarke and Bowen, along with J.A.L. Waddell, an engineer from Kansas City, and G.D. Minty, a lawyer from Winnipeg, carried on behind the scenes negotiations with the Alberta government between the autumn of 1908 and the time that the legislation was passed in February 1909. The passing of the legislation to incorporate the A. & G.W. and the legislation to guarantee its bonds represented the first public reference to the

Alberta and Great Waterways Railway Company.[1]

The A. & G.W. legislation was passed amid a flurry of legislation as the 1909 session of the legislature was drawing to a close. It was far from the only railway legislation that the government passed. The acts that dealt specifically with the A. & G.W. were an act to incorporate the company and one to guarantee its securities. The government also passed legislation to guarantee the bonds of branch lines for the Canadian Northern Railway (C.N.R.) and the Grand Trunk Pacific Railway (G.T.P.). The C.N.R. and G.T.P. guarantees were for the same amounts, at the same interest, and for the same term. In contrast, the specific

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[1] L.G.Thomas, The Liberal Party in Alberta: A History of Politics in the Province of Alberta 1905-1921 (Toronto: University of Toronto Press, 1959), p. 61. Thomas noted that W.R. Clarke, B.R. Clarke and Wm. Bain were the original incorporators of the A. & G.W. In doing so he listed the incorporators that were named in the Act of Incorporation for the A. & G.W. The name of G.D. Minty, also an original incorporator, was omitted in both cases. Bowen, W.R. Clarke, Minty (as Clarke's solicitor) and Waddell carried out two separate sets of negotiations in 1908. One was with members of the Athabasca Railway Syndicate and the other was with the Alberta government. Much information about both sets of negotiations was revealed in evidence taken by the Royal Commission that investigated the A. & G.W. Although a very brief sketch of the negotiations is provided here, they will not be examined in greater detail until the section of this thesis that examines the testimony given before the Royal Commission.

terms of the A. & G.W. legislation were set at significantly higher amounts.[2]

There was no objection in the legislature, however, over the seemingly favourable terms that the A. & G.W. received in comparison to the other lines. It was not until the February 1910 session of the legislature and the subsequent Royal Commission investigation that this discrepancy in the terms the government offered was even questioned. It is important to note that the same terms that would later face stiff opposition were not objected to at the time they were introduced and passed in the legislature.[3]

There are many possible reasons why the legislation was opposed. One obvious reason is that all of the railway legislation was part of the larger flood of

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[2] Statutes of Alberta, 1909. A total of fifty-one acts were assented to, 02/25/09. Nine of the acts incorporated railways, six amended acts of railways previously incorporated, and three acts guaranteed bonds for railways. See pp. 220-233, Chapters 14, 15, & 16, for the guarantee acts of the C.N.R, G.T.P. and A. & G.W., respectively. For the A. & G.W. Act of Incorporation see pp. 321-321, Chapter 46.

[3] Journals of the Legislative Assembly of Alberta, Fourth Session, First Legislature, 1909. See p. 35 for the 1st reading of the Act of Incorporation for the A. & G.W., 02/10/09. See p. 43 for the 2nd reading, 02/15/09, at which time the bill was refered to the Commmittee of the Whole. The Committee returned the bill without amendment for 3rd reading, 02/22/09. The 1st, 2nd & 3rd readings of the bond guarantee bill were all completed 02/24/09.

legislation that was passed as the session drew to a close. Although there was time allowed for discussion of the acts assented to, the discussion could not have been as full as the discussion the bill might have received had it been introduced earlier in the session.

A second reason for passing the legislation unopposed was that most of the members of the House were confident that Rutherford would protect the interests of the province. They passed the legislation because of their faith in Rutherford and the Rutherford government even though they had not had the opportunity to fully digest and comprehend the legislation.

The Members of the Legislative Assembly were not the only people in the province to express their faith in Rutherford and his government. An election was called for March 22, 1909 and the Rutherford government was swept to its second consecutive impressive majority, winning thirty-eight of forty-one seats.[4] Rutherford's railway policy was not an overwhelming issue in the election but rather was part of a package of policies the people of the province

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[4]Kenneth A. Wark, Chief Electoral Officer of Alberta, A Report on Alberta Elections, 1905-1982 (Edmonton, 1983), pp. 22-23. Thirty-five constituencies elected Liberals, two elected Conservatives, and one elected a Socialist. In addition, one Independent and one Independent Liberal were elected.

could look to in order to see evidence of the government's effectiveness. Opponents of the government blamed their sound defeat on the calling of a snap election and the redistribution of seats from the 1905 election. Railways only became an issue in Calgary where R.B. Bennett's affiliation with the C.P.R. came under discussion.[5] It is very likely that the M.L.A.s and the people of the province of Alberta did not know the full details of the province's agreement with Clarke regarding the A. & G.W. They did, however, offer overwhelming support to Rutherford, his government, and by extension, his railway policy.

Although the provincial election was in March 1909, the legislature was not recalled until February 1910. Thus, while there had been little time for discussion about the A. & G.W. legislation when it was passed, there was no opportunity to discuss it in the legislature between March 1909 and February 1910. No one seemed too upset by the delay in the sitting of the legislature or at the lack of opportunity to discuss the A. & G.W. C.W. Cross later

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[5]The Edmonton Journal, Edmonton Bulletin, Edmonton Capital, Calgary Herald and Calgary Albertan (hereafter cited as E.J., E.B., E.C., C.H., & C.A., respectively), March 15-30, 1909. All of the newspapers gave the impression that the Rutherford govenment was a well oiled political machine with little upon which it could be called to question. (On this point also see Thomas, The Liberal Party, p. 64.) The newspapers all differed on the merits of the opposition.

commented that he had been anxious to see the railway built as soon as possible but had not been overly concerned with the deal that was struck. A railway from Edmonton to Fort MacMurray had been promised in the election campaign of March 1909 and as time progressed with little work completed toward this end, Cross found himself having to deal with impatient constituents. The slow pace of the construction of the A. & G.W. line was a much greater concern to Cross and his constituents than was the deal the Government had struck with Clarke and the A. & G.W.[6]

The seeming lack of concern about the Government's A. & G.W. agreement did not last very long into the February 1910 session of the legislature. The first questioning of the government's A. & G.W. deal occurred on February 10, 1910. The questions were asked by R.B. Bennett of Calgary. He asked about the guarantees the government had given the A. & G.W., the C.N.R. and the G.T.P. Rutherford answered that the G.T.P. had been guaranteed for 193 miles, for $13,000 per mile at 4% interest. It had graded 50 miles and laid steel on 25 miles: The C.N.R. was guaranteed for 280 miles, for $13,000 per mile, at 4% interest. It had 13

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[6] Evidence taken by Royal Commission re Alberta and Great Waterways Railway Company, testimony of C.W. Cross, pp. 2520-2530, & pp. 2602-2609.

miles graded and laid steel on 19 miles. The A. & G.W. was guaranteed for 350 miles, for $20,000 per mile at 5% interest and had only graded 5.5 miles.[7]

John Boyle, Liberal M.L.A. from Sturgeon, followed this up a day later when he requested that the government table its A. & G.W. documents. He also asked about the paid up capital of the company, the appointment of a government engineer, and the sale of the A. & G.W. bonds. Rutherford answered that the paid up capital of the A. & G.W. was $50,000. W.R. Clarke, G.D. Minty, and William Bain were its directors. The bonds were sold to the J.S. Morgan Company for par, Canadian terms. The bonds realized $7,400,000 which was deposited in three banks and would earn 3.5% interest. R.W. Jones was appointed government engineer for the line on February 4, 1910.[8]

It was not unusual for the government to have its

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[7] Thomas, The Liberal Party, pp. 70-86 provided a very good summary of the A. & G.W. debate in the legislature. He relied on verbatim transcripts of the debate published in the E.B.; the E.C. & E.J. printed similar transcripts. Typed copies of some, but not all, of the speeches are in sessional papers deposited at the Provincial Archives of Alberta. It is difficult to quarrel with Thomas' interpretations. See E.B., E.C. & C.A., 02/11/10 for Bennett's questions & E.B., E.C. & E.J, 02/16/10 for Rutherford's answers.

[8] E.B., E.C., & E.J., 02/12/10 & 02/16/10; & Thomas, The Liberal Party, pp. 70-71.

policies questioned by Bennett, even though it was his maiden term in the legislature. After all, Bennett was one of only two Conservative members elected in a legislature dominated by Liberals. It would have been more surprising had Bennett not questioned the government. The questioning from Boyle was another matter. While Boyle's questions were, "on the surface innocuous,"[9] they were significant because they represented the beginning of his public opposition to the A. & G.W. Although it was only speculation, the Calgary Albertan surmised that Boyle was questioning the government because he was upset that he had not been given a cabinet position in the aftermath of the election.[10] In any event, Boyle and Bennett became the most vocal and eloquent critics of the A. & G.W. deal in the month that followed their initial criticisms. Unfortunately for the Rutherford government, Boyle would not be the only Liberal member to oppose the A. & G.W. deal.

The questioning by Bennett and Boyle was not enough in itself, however, to make the A & G.W. the dominant political issue it later became. A catalyst was needed, and the catalyst that drove the A. & G.W. into the full glare of

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[9]Thomas, The Liberal Party, p. 70.

[10]C.A., 02/12/10.

public spotlight was the resignation of W.H. Cushing as Minister of Public Works.

Cushing's impending resignation had been rumored throughout the first week of the session. Boyle and Bennett accused the Rutherford government of supplying the press with information about Cushing's rumored resignation prior to giving it to the House. Rutherford denied that there was any leak or that Cushing's resignation was imminent. While the existence of a press leak was never conclusively established, Rutherford's denial of Cushing's resignation proved to be inaccurate. Cushing made good on the rumors when it was announced he had stepped down from the portfolio of Public Works on February 17, 1910.[11]

In making the announcement Rutherford read Cushing's full letter of resignation to the House. He then followed by reading the letter he wrote to Cushing in accepting his resignation. The following excerpt covers the majority of Cushing's letter:

> ...there are several matters in which I am not in accord with, the most prominent of those being the manner in which you have handled the railway

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[11] On rumors of Cushing's resignation and Rutherford's denials, see E.C., E.J, and C.A., 02/14/10 and E.B., 02/15/10.

> policy of the province, particularly that pertaining to the guaranteeing of the bonds of the Alberta and Great Waterways Railway. For this transaction put through without my knowledge or consent is, in my judgement, such that I cannot with sincerity of heart and honesty of purpose defend before the electors of the province... because you have utterly failed to protect the interests of the people.[12]

Rutherford then read his own reply to Cushing's letter of resignation. He expressed surprise that Cushing was unhappy with his administration of public affairs. He was confused that Cushing could say the A. & G.W. policy was determined without his knowledge and consent because Cushing had attended all of the cabinet meetings at which the matter was discussed. All of the cabinet, Cushing included, had consented to the government's A. & G.W. policy. In spite of his surprise and disbelief at Cushing's position, Rutherford did, nonetheless, accept his resignation.[13]

Neither Rutherford nor Cushing were immediately available to comment on their correspondence or the

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[12]This quote was taken from the E.C. and the E.J., 02/18/10 which published copies of both Cushing's and Rutherford's letters. The E.B., 02/18/10 offered a summary of the letters but did not profess to publish them in their entirety. Thomas, The Liberal Party, p. 70, also provides a brief summary of the letters.

[13]Ibid.

resignation itself. The province was shocked by the resignation of the Minister of Public Works. While questions were asked about the A. & G.W. prior to Cushing's resignation, his resignation made the issue front page news. Cushing remained at the forefront of the subsequent attack on the government and the A. & G.W. but, ironically enough, he did not really lead it. Bennett and Boyle continued to take the most active role in leading the opponents of the government, who became known as the Insurgents, although Cushing remained very much in the public spotlight. In any event, there were significant cracks developing in the Rutherford administration that only one year earlier had ridden the crest of a huge majority back into government.

It had been expected that Cushing would elaborate on the reasons for his resignation when the House met on February 21, 1910. He did not, however, offer any further explantion for his actions. Boyle and Bennett had been insisting that the government table its documents regarding the A. & G.W. When the documents were finally tabled on February 21, 1910, Cushing witheld his statement in order to

first read the documents.[14]

Although the House did not hear Cushing's statement, they did hear Boyle give notice of a motion that he intended to bring regarding the expropriation of the proceeds of the A. & G.W. bond sale. Boyle wanted the construction of the A. & G.W. to be taken over by a three member commission and to have any money left over from the bond sale be used in the construction of branch lines within the province. Upon hearing the notice for this motion, Cushing said he would further withold his statement until he spoke to the motion.[15]

The motion was seen as unexpected and it placed the Rutherford administration on the defensive with regard to its A. & G.W. policy. It advocated measures that many people in the province could not countenance. An editorial in the Edmonton Capital warned of the outcome that such a motion could bring. It was feared that the expropriation of a bond issue could seriously damage the province's credit.

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[14] E.J., 02/19/10; E.B., 02/22/10. For Cushing's comment of 02/21/10 that he would withold his statement until after reading the documents that the government tabled, also see sessional papers deposited at the Provincial Archives of Alberta, Accession #74.1, Box #11, Item #280.

[15] E.J., 02/21/10; E.B., 02/22/10

The province could face tremendous obstacles to borrowing money in the future if it confiscated funds that did not belong to it.[16]

Debate on Boyle's motion did not begin immediately. The main topic of discussion prior to the debate beginning centered on the documents that the government had tabled. Boyle and Bennett insisted that the documents that were tabled were incomplete whereas Rutherford and Cross said that no documents had been held back or destroyed. Cross even invited Boyle and Bennett to investigate the files in his office if they believed there was something in them that they thought should be tabled before the House. Neither side was convinced by the claims of the other side.[17]

A. Bramley-Moore, M.L.A. for Alexandra, expressed his frustration at the postponement of Cushing's statement when one still had not been forthcoming by February 24, 1910. A full week had passed since Cushing's departure from the cabinet had been announced and Bramley-Moore was

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[16] E.C., 02/22/10.

[17] E.J., 02/22/10 & 02/23/10; E.B., 02/23/10 & 02/24/10; E.C., 02/23/10 & 02/24/10. For Boyle's speech of 02/22/10 asking about the completeness of files, also see, P.A.A., Access. #74.1, Box #11, Item # 281. For Bennett's speech 02/23/10 see P.A.A., Access. #74.1, Box #11, Item #282.

becoming impatient to hear the ex-minister's rationale. He noted that the Calgary Herald had compared Cushing to the Rock of Gibraltar, but thought the reference must have been to the fact that neither the Rock, nor Cushing could speak. He reasoned that Cushing knew why he resigned, when he resigned. Subsequent events, such as the tabling of government documents, should not have had any bearing on Cushing's explanation.[18] While there was a certain logic to Bramley-Moore's statement, it did not warrant any comment from Cushing. Cushing continued to remain silent; he would make his statement when he was ready.

One day later Cushing finally made his long awaited statement.[19] He said there were many parts of the A. & G.W. deal that he had neither been told about, nor could agree with. He understood that the A. & G.W. guarantee would be for the actual cost of construction of the line, up to a maximum of $20,000 per mile. He did not understand the entire line would be guaranteed for $20,000 per mile. Cushing also objected to the bonds being

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[18] E.J., 02/24/10; E.B., 02/25/10; E.C., 02/25/10. For Bramley-Moore's speech 02/24/10 also see, P.A.A., Access. #74.1, Box #11, Item #283.

[19] Copies of Cushing's statement appeared in the E.J., 02/25/10 and the E.B., 02/26/10. The following summary of his statement was taken from these two sources.

guaranteed at 5% interest rather than the 4% interest the other bond guarantees received. He said the reason he had not objected to the terms of the bond guarantee when it was passed was because he had then only recently been discharged from the hospital and he had not had time to look over the legislation. He supported its passage simply because he had faith in Rutherford's ability to safeguard the interests of the province.

Cushing also objected to the transfer of railways from the Department of Public Works to the Premier. He said the transfer had been made at the end of the session and he did not fully understand the consequences of the move. He did not understand that the move would mean that experienced Public Works engineers would not be consulted in preparing the specs of the A & G.W. Cushing warned Rutherford that he did not trust Clarke and Waddell and advised that the government send out its own engineer to survey the line in question. Rutherford did not act on the advice and assured him that Clarke and Waddell were of the highest standing. After receiving the Premier's assurances Cushing recalled a period of several months when the status of the A. & G.W. remained unchanged.

Cushing also objected to the guarantee of the

entire amount of the A. & G.W. securities in one bond issue. The A. & G.W. did not have the track record of the C.N.R. or the G.T.P. and he worried about the government committing itself to the full amount of the guarantee for previously unknown railway promoters. Instead, he thought several smaller bond issues should have been made at periodic intervals in order to lessen the province's immediate commitments.

Cushing said he attended a meeting on September 13, 1909, at which the proposed specs for the A. & G.W. were discussed. He objected to the passage of Waddell's specs because he did not think they were adequate. He did not understand why the government did not use a Public Works engineer to at least assist in the drawing of the specs. Nothing was decided upon at this meeting and thus another meeting was held on October 7, 1909. Cushing was assured by Rutherford that the specs of the C.N.R. mainline would be followed although a copy of the specs was not produced. He was surprised, therefore, when he learned that the standard used in the A. & G.W. specs was the Crows Nest Pass line, and not the C.N.R. In Cushing's opinion the Crow's Nest Pass Line, which was built between 1896 and 1898 was, "the poorest constructed road in Western Canada."

When asked why he had waited until February, 1910 to voice his objections, Cushing replied that he had previously made them known. He objected to Rutherford at the September 13, 1909 meeting and was assured that his objections would be satisfied. It was only in the week before the February 1910 session of the legislature opened that Cushing learned such was not the case. His response was to resign for he could not support what he called a "very poor, but very expensive railway." In concluding, Cushing offered to build a line to the A. & G.W. standards for $12,000 per mile and one to C.N.R. standards for $16,000 per mile.

The essence of Cushing's statement was that he had not been party to most of the features of the A. & G.W. deal. The government had made the deal without informing or consulting him. Such statements were quite contentious and were refuted on many occasions in the debate in the legislature. They were even further refuted in evidence given before the Royal Commission that examined the A. & G.W. It is perhaps because so much of what Cushing said was later questioned that the active leadership of the fight fell more to Boyle and Bennett than the ex-Minister of

Public Works.[20]

Cushing's statement about his resignation had been a long time in materializing but Rutherford was quick to reply to it.[21] He said he had not been given any indication that Cushing was upset that railways had been removed from Public Works. In fact, Cushing told him as long as it was the Premier who took charge of railways he would be satisfied. Rutherford repeated that Cushing was at every cabinet meeting at which the the A. & G.W. was discussed. Cushing's private secretary could confirm his attendance at cabinet meetings if Cushing could not recall it. Rutherford said that he made every effort to keep the Minister of Public Works informed and it was Cushing, not the government, who was to blame if he did not know or understand the details of the A. & G.W. deal. Rutherford did not know how he could have dealt with Cushing's objections when they had not been brought to him prior to

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[20] In testimony heard by the Royal Commission, cabinet ministers and civil servants testified that Cushing was kept informed about the A. & G.W. When confronted with this conflicting testimony Cushing's standard response was that he did not want to say it was false, but simply could not remember the details of it. This feature of the fight over the A. & G.W. will be developed more fully in the section of this thesis that deals with the evidence given

[21] E rose to reply to Cushing's statement as soon as the ex-befor minister was finished. Rutherford's reply was printed immediately following Cushing's statement in both newspapers.

Cushing's resignation.

Rutherford also did not understand Cushing's objection to the use of the Crow's Nest Pass line as the standard for the specs of the A. & G.W. It was the standard used in the specs for the main line of the C.N.R. and as such Rutherford thought it equally sufficient for the A. & G.W. He added that the A. & G.W. would only be built to the highest standards. He also noted that the government had engaged R.W. Jones, whose professional reputation was beyond reproach, as government engineer for railways and Jones estimated the line would cost $29,251 per mile. Given that estimate, a $20,000 per mile guarantee was not unreasonable, and Cushing's offer to build a line for $12,000 or $16,000 per mile was nothing more than a bluff. Rutherford concluded by expressing his regrets that Cushing had fallen in with a "nest of traitors," and noted that he still considered Cushing to be the man best qualified to be the Minister of Public Works.

The debate about the A. & G.W. became even more heated in the discussion that followed the statements of Cushing and Rutherford. Boyle opened the debate on his motion to expropriate the proceeds of the A. & G.W. bond sale. His motion amounted to a motion of want of confidence

in the government.[22] It was on this motion that the government would face its greatest struggle in the legislature.

On November 14, 1908, Rutherford signed a letter which was given to Clarke and which promised to support legislation to incorporate and guarantee the securities of Clarke's railway. No M.L.A.s outside of the cabinet were aware that any negotiations had taken place or that such a promise was made. Boyle questioned whether it was constitutionally proper for Rutherford to promise to promote upcoming legislation. Regardless, he doubted that the legislation would have passed as easily as it did had the House been aware of Rutherford's secret negotiations with Clarke. Boyle also wondered why the government had waited until February 4, 1910 to appoint a government engineer to oversee the line when the line had been incorporated almost a full year earlier.

The bond guarantee was the main focus of Boyle's criticisms. The province guaranteed the bonds at 5% interest and the proceeds of the bond sale realized 3.5%

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[22] E.B., 02/26/10, and P.A.A., Access. #74.1, Box #11, Item #284 provide virtually identical accounts of Boyle's motion. The following summary of his motion is based on these two sources. E.J., 02/25/10 provides a brief summary of the motion without professing to supply a verbatim transcript of the motion.

interest when deposited in banks. He questioned the need to sell the bonds in November 1909 when no further work could be done on the line until the spring of 1910. He thought that money was needlessly lost on the interest differential when work could not even be completed in the winter. Boyle also did not understand the need to offer a guarantee of 5% interest when municipalities could offer bonds with 4% or 4.5% interest or why the government used Clarke's agent to sell the bonds instead of an agent of its own choosing. In addition he quoted criticisms of the A. & G.W. bond sale noting that it not only lowered the credit of Alberta, but of all western provinces.

Boyle also turned his attention to the specs of the line. He cited many instances where the specs of the line were inferior in comparison to the Dominion's railway specs and said that D.D. Mann of the C.N.R. said the specs were "no good to construct a line on." Boyle wondered why the A. & G.W. would be guaranteed for 350 miles when it was only 220 miles from Edmonton to Fort MacMurray. He scoffed at Clarke's letter promising better terms which had recently been tabled in the House. Boyle said Rutherford had accepted promises in lieu of guarantees on too many occasions. The province did not need another one of

Clarke's promises to safeguard its interests. It needed guarantees that had not been forthcoming from Clarke.

Boyle concluded by noting that although he had long been on friendly terms with the government, he could not agree with its A. & G.W. policy. He said that if acting in the best interests of the province meant to be a "traitor" -- then he was proud to be a "traitor." He regretted that his division with the government was necessary, but stressed that it was indeed necessary.

Boyle's speech outlined the main issues that opponents of the A. & G.W. were so upset about. One was the terms of the bond guarantee and the other was the quality of the specs. These issues were essential in determining if the government had made a good business deal. Even if one decided that the government made a bad business deal, however, Boyle's questions did not really uncover whether the government did so out of ignorance or corruption.

C.W. Cross responded to Boyle by offering his defense of the government's A. & G.W. deal.[23] The gist of Cross' defense was that the government believed in the developmental potential of the North and it was because of

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[23] E.B., 02/26/10; E.J., 02/25/10. The following summary of Cross' reply was taken from these two sources.

this belief that they believed in the A. & G.W. A railway would be needed to transport people to the North and to service them once they settled there. The necessity of such a railway would become more apparent as land became less available in the southern parts of the province. Cross believed the government would have been "recreant in its duty" if it did not do everything in its power to promote a railway from Edmonton to Fort MacMurray. He admitted that the government had hoped to have the C.N.R. or the G.T.P. build the railway, but realized they would need to find a new promoter when it became apparent that both railways were too busy with other projects to build the line. The government was not afraid to deal with Americans and embraced Clarke when he made the only substantial offer to build the line.

Cross also defended the specs on which the A. & G.W. was to be built. He said they were specs that the Dominion government, the province of Saskatchewan, and the Engineer of the Railway Commission had all accepted and did not see why the government of Alberta should be faulted for accepting them. Cross said that the C.N.R. standards and the Crow's Nest line standards were the same thing. He did not understand how Cushing could be satisfied with one set

of standards but not the other. Cross then expressed his faith in the talents of R.W. Jones and said that if Jones said the line would cost $29,000. per mile, that was likely what it would cost.

In addition Cross quoted from Cushing's pre-election speech given at Bankview on March 10, 1909. Cushing defended the A. & G.W. deal against Bennett's charges that it was the result of a "hasty, imprudent decision." Cross said that Cushing's defense of the line was as relevant in February 1910 as it had been in March 1909.

After defending the merits of the A. & G.W. deal, Cross then turned to an attack of Boyle's motion. He found the clause to expropriate the proceeds of the A. & G.W. bond sale most odious. He did not think that such an unconstitutional act had ever been done anywhere else in the British Empire and doubted that even Bennett could support such a bill.

Cross concluded by saying that Clarke's recent offer of better terms was simply a further display of good faith on the part of the A. & G.W. syndicate. He then restated his faith in the North and spoke of the day when Fort MacMurray would be the third largest city in the

province.

In reading Cross' reply one is left with the impression that anyone who did not believe in such a vision was not only pessimistic, but even worse, unpatriotic. His reply would be characteristic of the government's defense. He did not admit that a bad business deal had been made but did allow that any mistakes on the government's part were due to its strong belief in the province and not to avarice or corruption.

Cross was followed in the debate by E.H. Riley of Gleichen, who although not as well known as Boyle, Bennett or Cushing, became one of the staunchest opponents of the A. & G.W. deal. The Edmonton Capital reported that the Gleichen Liberal Association called for his resignation because they feared his opposition would hurt the chances of an agricultural college being located in Gleichen.[24] The alleged threat from his local Liberal Association did not deter Riley's opposition. Riley took great offense at Rutherford's use of the term "traitors." He acknowledged that he had been elected largely as a result of Rutherford's

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[24]See E.C., 02/28/10, on the threat from the Gleichen Liberal Association. See E.B., 03/01/10; E.J., 02/28/10; E.C., 03/01/10: and P.A.A. Access. #74.1, Box #11, Item #285, on Riley's speech in the legislature. The following summary of Riley's speech was taken from these four sources.

railway policy but denied that this meant he was obliged to vote for every piece of railway legislation that the government proposed. Riley also said that the fact that Clarke offered better terms at the first sign of public criticism should be an indication of how bad the original deal really was.

Riley repeated many of Boyle's charges and also asked why the A. & G.W. was the only railway in the province to be exempted from certain clauses of the Railway Act of 1908. The Railway Act was supposed to safeguard the interests of the people of the province; how could it do so if the Act was not applied in its entirety to all railways in the province? He also noted that even if one allowed that both the C.N.R. and A. & G.W. were to be built to the same standard (ie. the Crow's Nest Pass line), it was the minimum standard for the C.N.R. and the maximum standard for the A. & G.W. In addition, Riley noted that the Attorney General had said the line to Fort MacMurray was necessary to open new agricultural areas for settlement, yet he also said the line would be very expensive to build because of large amounts of muskeg that needed to be crossed. Riley wondered which, in fact, was the more accurate representation of the North.

In concluding Riley told the Premier, "Dare to be a Daniel and tear up the agreement that has been made with this company." He then proposed an amendment to Boyle's motion which, although no less condemning of the Rutherford government, made the motion easier for more members of the legislature to accept. Riley moved that a motion of non-confidence replace the section of Boyle's motion that called for the expropriation of A. & G.W. funds.

W.F. Puffer of Lacombe followed Riley with a defense of the government.[25] Puffer said he would vote against the government if it had been dishonest, but not if it had only been mistaken. He warned that the line would likely cost closer to Jones' estimate of $29,000 per mile than Cushing's estimate of $16,000 per mile. High guarantees were necessary because, as a colonization railway, the A. & G.W. could not expect a high income from freight in its early years. After carefully considering the deal, he decided to support the government.

Dr. Warnock, of Pincher Creek, then offered his strong opposition to the deal and his bitter resentment to Rutherford's use of the word "traitor." There was little new to the side of the Insurgents, however, in Warnock's

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[25] E.B., 03/01/10; E.J., 02/28/10; E.C., 03/01/10.

speech.[26] He was followed by J.L. Cote, of Athabasca, who spoke of the merits of the North much along the lines of Cross' earlier speech. Cote, like Warnock however, did not substantially add to the debate.[27]

J.W. Wolfe, of Cardston, followed Cote and offered his strong support for the government. More importantly, he offered an amendment to Boyle's motion that was acceptable to the government.[28] Wolfe proposed that the expropriation of A. & G.W. funds be removed from the motion and replaced with a clause stating that Clarke's offer of better terms be incorporated into the agreement. In essence, Wolfe was proposing that the government make the best of the deal that it possibly could. Bennett immediately contended that the amendment was illogical and out of order. The House then adjourned in order for the Speaker to consider Wolfe's amendment.

A decision from the Speaker was not immediately forthcoming when the House reconvened. The debate continued with speeches by C.M. O'Brien, of Rocky Mountain House, E.M.

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[26] E.B., 03/01/10; E.J., 02/28/10; E.C., 03/01/10.

[27] E.B., 03/01/10; E.J., 02/28/10; E.C., 03/01/10; and P.A.A., Access. #74.1, Box #11, Item #285.

[28] E.B., 03/01/10; E.J., 02/28/10; E.C., 03/01/10.

Michener, of Red Deer, G.P. Smith, of Camrose, A. Bramley-Moore, of Alexandra, W.T. Telford of Leduc, and Chas. Stewart, of Sedgewick.[29] O'Brien, the lone Socialist in the House, spoke mostly about labourers on the A. & G.W. line. He did take note of Rutherford's earlier comment that if Clarke put all of his "eggs in one basket," he could build many railroads. O'Brien quipped that the reason for the "traitors" was because when it was learned that the A. & G.W. only had $50,000 in paid up capital, they realized there were not enough "eggs" to split up. Generally O'Brien focussed more with the plight of the workers on the railway than on the actual terms of the agreement. Michener and Smith both said the deal was based on bad business principles, although Smith added that he would be willing to be convinced otherwise. Bramley-Moore and Telford both thought the deal was a good one and, in the words of Telford, one that would "stand the test of time." Stewart, like Smith, said he was ready to be convinced by the government that it was worthy of his support, but if not convinced, he would have no qualms about opposing it. The House adjourned after Stewart's speech.

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[29] E.B., 03/02/10; and E.J., 03/01/10 contained summaries of all of the speeches of O'Brien, Michener, Smith, Bramley-Moore, Telford and Stewart. E.C., 03/02/10 only had summaries for O'Brien, Michener and Smith.

C.W. Cross re-opened the debate after the reconvening of the House.[30] Cross welcomed the questioning but open-minded attitudes of Smith and Stewart. He then reminded the House that there were at least two parties in every agreement and that no side ever receives everything it wants in an agreement. The government did not impose the deal upon Clarke; the deal was negotiated. Thus, it should not have been surprising that the A. & G.W. deal differed from other deals the government entered into at the same time.

Cross then noted that both the Ontario government and Manitoba government had offered railway guarantees that the Alberta government looked to for precedents in negotiating its deal with Clarke. It was because of these precedents that the Alberta government decided $20,000 per mile and $400,000 for the Edmonton terminal were reasonable. He was attempting to show that the amounts involved in the A. & G.W. deal were not as outrageous as the Insurgents may have believed.

Cross also defended the sale of the bonds in November 1909, even though it would be months before work on

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[30] E.B., 03/02/10; E.J., 03/01/10; E.C., 03/02/10; and P.A.A., Access #74.1, Box #11, item #286 all contained accounts of Cross' speech. The following summary of Cross' speech was taken form all four sources.

the line could begin in earnest. He said that the threats of an impending war in Europe made waiting to sell the bonds a poor idea. The bond market would be healthier in peacetime than in wartime and he saw the interest differential as an insurance premium against a possible rapid decline in the market.

Cross then noted that the government knew as much about the paid up capital of the A. & G.W. as it did about the paid up capital of the C.N.R. or G.T.P. He did not know why anyone complained about the paid up capital of the A. & G.W. when no one complained about the other two lines. In any event. he thought a large amount of paid up capital, such as the $1,000,000 offer recently made by Clarke, was excessive and potentially crippling for the new company. He did not see any good that could come from having Clarke freeze $1,000,000.

Cross then defended the sale of 5% bonds at par Canadian terms. He said that the province of Quebec had recently sold 4% bonds at 92.5. A C.P.R. bond issue, which was usually one of the best movers on the market, only realized 105.5 on a 5% bond. Given these sales, he did not think par was all that bad a return for the government's 5% A. & G.W. bonds.

Cross concluded by defending the exclusion of the A. & G.W. from certain clauses of the Railway Act. It was obvious that no one in Clarke's group was a resident of Alberta. The clause of the Railway Act that insisted on two directors being residents of the province was foolish. Had it been enforced, Clarke would have merely appointed two "dummy" directors and the province would not have been safeguarded any further. He also noted that the A. & G.W.'s Act of Incorporation allowed for a possible government takeover of the railway. Keeping the section of the Railway Act that applied to a possible government takeover would have only been redundant. Cross emphasized that the province's interests were protected, even though the Railway Act had not been applied in its entirety to the A. & G.W.

J.B. Holden of Vegreville, J.A. McDougall of Edmonton, and I.M. Roberts of High River followed Cross and did little to advance the debate.[31] Holden was somewhat reassured by Cross' speech but still thought the Attorney General left many details unexplained. McDougall said he was not ashamed to be an Insurgent because it was agitation by the Insurgents that had brought forth Clarke's offer of

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[31] E.B., 03/02/10; E.J., 03/01/10; and E.C., 03/02/10 all gave accounts of these speeches. The following summary of these speeches is based on these three sources.

better terms. He did not believe in repudiating the A. & G.W. contract but did believe that the government should continue to work toward better terms in the deal. Roberts was very upset with the government's conduct and compared the Rutherford administration to Tammany Hall. He could not believe that only one letter in the tabled A. & G.W. documents bore Cross' signature and wondered if the Attorney General's office had been turned over to Deputy Attorney General S.B. Woods. Roberts concluded by contending that the government had yet to answer the main questions asked of it and accused Cross of attempting to cloud the issue, rather than answer questions. The House adjourned for the day after Roberts' speech.

W.H. Cushing opened the debate the next day, followed by the Premier. The speeches of these two men were brief and not all that different from the speeches they made in reference to Cushing's resignation.[32] Cushing said that the debate he had heard only reaffirmed that he had made the correct choice in resigning. He also took offense at Cross' attempts to read him out of the Liberal Party for he "was in the province when the Attorney General was in knicker-

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[32] E.B., 03/03/10; E.J., 03/02/10; E.C., 03/03/10 all gave accounts of these speeches. The following summary of these speeches is based on these three sources.

bockers." Rutherford, like Cushing repeated much of his earlier speech. He said there was nothing unusual about the A. & G.W. deal. Rutherford was confident that his government's position would be affirmed if only the people of Alberta would hold their judgements about the A. & G.W. until after it was completed.

R.B. Bennett followed Rutherford with what the Edmonton Journal and the Edmonton Bulletin referred to as the highlight of the debate. The Bulletin even went so far as to say that Bennett reached a height in his speech that had not before been seen in the province of Alberta.[33]

Bennett claimed that the government was guilty of "culpable negligence," in that it had the opportunity to avail itself of information but did not do so. He mentioned the history of the Athabasca Railway Syndicate which Clarke bought an option on, and wondered how Clarke received a government guarantee when the previous promoters had failed to do so. Bennett said Rutherford was "beguiled and hypnotized" by Clarke. He questioned the stripping of the

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[33] E.B., 03/03/10; and E.J., 03/02/10. In an editorial, 03/04/10, the E.C. criticised the E.B., for taking the unusual position of praising Bennett and said that the E.B., was shirking its responsibilities to the city of Edmonton in offering such praise to Bennett. The following summary of Bennett's speech was taken from E.B., 03/03/10; E.J., 03/02/10; and E.C., 03/03/10. P.A.A., Access. # 74.1, box #11, Item #287 contains a brief excerpt from Bennett's speech but is in no way a full account of the speech.

government files, the removal of certain clauses of the Railway Act, and the amount of the guarantee.

Although he had his suspicions, Bennett was finally and completely convinced that the entire deal was rotten when large financial interests asked him to keep quiet about the deal. He did not reveal who the large financial interests were though. He was confident that the railway would never produce enough revenue to cover its fixed charges and said, "The whole deal was to complete a speculative road for speculative purposes by a speculative promoter."

Bennett also dropped the bombshell that while the province had only received par for the A. & G.W. bonds, the bonds had actually sold for 110 on the London market. Allowing for a conversion to Canadian terms, and a commission for the Morgan House which sold the bonds, Bennett estimated that this still left $200,000 - $300,000 for Clarke and his associates to split among themselves. He said the Pacific Scandal would seem insignificant in comparison to the government's A. & G.W. deal and that the A. & G.W. deal was, "the most damnable transaction that a free people ever sat down to consider."

Rather than end with this startling revelation,

Bennett then attempted to implicate Cross in a bribery scandal involving the Calgary Automatic Telephone Company. This charge brought an immediate denial from Cross and lessened the effectiveness of Bennett's speech.[34] In spite of this weak ending, however, Bennett did offer a strong attack on the government's railway policy.

Duncan Marshall, the Minister of Agriculture faced the task of following Bennett's five hour speech.[35] He criticized Bennett for trying to besmirch Cross' character with unsubstantiated accusations of graft involving Calgary telephones. He also criticized Bennett for completely ignoring the proposed Wolfe amendment to Boyle's motion. Marshall said that Bennett had criticized the 1909 legislation sufficiently, but had failed to speak to the current legislation under discussion.

Marshall also said that simply because there was only one letter bearing Cross' signature did not mean that Cross had stripped his A. & G.W. files. Marshall said it

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[34]Cross later produced a sworn affidavit of the man from whom Bennett alleged he had extorted money. The affidavit effectively denied the charge. The allegation of corruption with regard to Calgary telephones was then dropped. E.B., 03/04/10; and E.C., 03/04/10.

[35]Marshall was only able to begin his reply 03/02/10 when the House was adjourned. (E.B., 03/03/10; E.J., 03/02/10; and E.C., 03/03/10). He resumed his speech the next day. The following summary of his speech was taken from: E.B., 03/04/10; E.J., 03/03/10; and E.C., 03/04/10.

was quite usual for Deputies to sign most of the correspondence in a government department. Much had been made about the A. & G.W. only having $50,000 in paid up capital but Marshall pointed out that this represented 1/40 of its total capital. In contrast, the paid up capital of the G.T.P. was only 1/250 of its total capital, yet no one complained about that. Marshall also acknowledged that the A. & G.W. bonds were offered for 110 a mere week after the government had received par for them. He had not, however, seen any proof that the bonds had actually been resold at 110.

Marshall said that Clarke was a promoter in the same sense that Mackenzie and Mann of the C.N.R. were promoters except that while the C.N.R. men returned to the Dominion government asking for more government money, Clarke returned to the Alberta government offering to put up more of his own money. Clarke was as worthy of government support as Mackenzie and Mann. Sceptics said that the A. & G.W. would never pay for itself; Marshall did not know of any railway ever built in Canada that did not have sceptics say the same thing about it.

Marshall concluded by tossing a challenge to Boyle. He claimed that had Boyle been successful in his

application for the solicitorship of the A. & G.W., the member from Sturgeon would have never raised the objections that he did.

Debate on Boyle's motion, with Wolfe's amendment, closed with a speech by Boyle himself.[36] He denied Marshall's charge that his failure to receive the solicitorship of the A. & G.W. had anything to do with his opposition to it. He said that his original questions about the deal still remained unanswered. The government had not defended itself against the charges of the Insurgents but had merely evaded them. Even Clarke's offer of better terms would leave the province with a poor quality railway. On paper the Crow's Nest line may have been the standard for the C.N.R., but it was not the standard that the line had been built to. Boyle closed by saying that he had been elected on Cushing's railway policy every bit as much as Rutherford's. The A. & G.W. was, in his opinion, a bad bargain. He hoped enough M.L.A.s would realize that, and vote with their conscience, not with their party.

A vote was called for with the debate on Boyle's motion at a close. The Rutherford administration was

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[36] E.B., 03/04/10; E.J., 03/03/10; and E.C., 03/04/10. The following summary of Boyle's speech is taken from these three sources.

bloodied but not beaten; it had lost twelve supporters in the debate,[37] but still was maintained by a margin of 23-15.

Although the government was not defeated on Boyle's motion, its fight over the A. & G.W. was by no means complete. Newspapers reported on constituency support for selected members who voted either for or against the government.[38] The Edmonton Journal gave coverage to a banquet held by the Insurgents the day after the vote in the legislature. Riley, Boyle and Roberts were the most vocal of the Insurgents, but none dissented when they said the fight must continue.[39] Smith was later quoted as saying, "The fight has just begun...watch our smoke."[40]

There was a slight lull in the proceedings at the

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[37] E.B., 03/04/10; E.J., 03/03/10; E.C., 03/04/10. The E.B., and the E.J. both printed full copies of the motion as it was carried and a breakdown of the vote.

[38] E.B., 03/08/10 reported constituency support for Puffer (Lacombe) and Shaw (Stettler), both of whom supported the government. It also reported support for Campbell (Ponoka), McLean (Lethbridge) and Glendenning (Nanton), all of whom voted against the government. E.J., 03/07/10 reported on the support for Campbell. E.C., 03/08/10 reported on support for Puffer, although in an editorial, 03/04/10, the E.C., did question how McDougall could consider himself a good Edmontonian when he supported Bennett, who was so strongly opposed to Northern development.

[39] E.J., 03/04/10.

[40] E.B., 03/07/10.

legislature after the vote on Boyle's motion but it was to be short lived. The lull was broken when it was reported that C.W. Cross had resigned as Attorney General of the province.[41] Cross apparently had resigned when he found out that Rutherford successfully negotiated Cushing's return to the cabinet. He decided that he could not be part of a cabinet which was to include his adversary. It was further reported that Cushing then changed his mind and did not rejoin the Rutherford's government. The result was that neither Cross, nor Cushing remained in the cabinet. Rutherford refused to comment on the rumor. He also did not respond to Bennett's queries about the empty seats where the cabinet should have sat and quickly moved adjournment.

It was reported that both Cushing and Cross had strong groups of followers but that the Premier had none. The uncertainty about who was or was not part of the cabinet left Rutherford's government in shambles; his resignation was expected at any time. For his part, Cushing denied accepting an offer to rejoin the cabinet or being party to the double-crossing of the Premier. The situation was

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[41] E.B., 03/09/10; E.J., 03/09/10; E.C., 03/09/10. The following summary of Cross' resignation and Cushing invitation to rejoin the cabinet was taken from these three sources. W.A. Buchanan also resigned from the government at the same time and the resignations of Marshall and P.E. Lessard were said to be imminent. Only Cross' resignation was directly related to the A. & G.W.

stabilized somewhat by the return of Cross to the cabinet on March 10, 1910, although Rutherford continued to refuse comment about the absence of other cabinet members. The House was in a state of disarray. Every vote in the House had the same outcome -- 20-17 in favour of the government. The Edmonton Journal reported that the 17 would continue to fight and the 20 would continue to remain silent.[42]

In desperation Rutherford moved the establishment of a Royal Commission to investigate the A. & G.W. The move was seen as a victory for the Insurgents when it was conceded that the commission would investigate everything about the A. & G.W. and not just the bond sale. The Insurgents were also allowed to have independent counsel present at the commission hearings. On March 19 the House was adjourned until May 26, pending the report of the Royal Commission. The stormy session of 1910 was at a close but the battle over the A. & G.W. would continue during the course of the Royal Commission's investigations.

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[42] E.J., 03/15/10.

CHAPTER TWO: THE ROYAL COMMISSION INVESTIGATION

The Royal Commission that investigated the A. & G.W. was appointed on March 16, 1910, three days before the legislature was adjourned. It was intended that the House would reconvene on May 26, 1910, at which time the report of the Royal Commission would be read. Although the legislature was recalled on May 26, 1910, the report was not read. The commission had not even completed its hearing of evidence, let alone completed its report. It had been expected that the commission would hear evidence in Edmonton but it was delayed by also having to hear evidence in Winnipeg and Toronto. The result was that the report was postponed until the opening of the November session of the legislature.

The commission was comprised of Justices D.L. Scott, Horace Harvey and N.D. Beck. W.L. Walsh and L.M. Johnstone were the counsels for the commission and R.B. Bennett attended the commission as counsel for the Insurgents. Bennett was quite thorough in his cross-examination of most of the witnesses. The individuals that were examined by the commission were also allowed counsel but the participation of these lawyers was generally limited

and isolated.[1]

It had been hoped that the commission would be able to untangle many of the accusations that had arisen in debate in the legislature about the A. & G.W. It was also hoped that commission's investigation would be more effective than the debate in the legislature because it was removed from the political spectrum. The commission, however, was not without its obstacles. It faced many pitfalls, some of which were beyond its control. For example, it was powerless to do anything about the refusal of W.R. Clarke to appear before commission. It also created problems for itself in the way in which it heard testimony, especially regarding the testimony of government members or M.L.A.s who played key roles in the debate in the legislature about the A. & G.W. Ultimately the commission was no more successful in uncovering the details of the A. & G.W. affair than the legislature had been.

The commissioners were not able to agree in their conclusions. The result was a majority report authored by Scott and Harvey, and a minority report authored by Beck. The majority report supplied a chronology which included the

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[1]Report of the Royal Commission on the Alberta and Great Waterways Railway Company, Province of Alberta, 1910, p.1.(hereafter cited as R.C. Report) Thomas, The Liberal Party, p. 86, also lists the counsel that attended the commission.

the incorporation of the Athabasca Railway Syndicate by J.K. Cornwall in November 1905, the sale of the charter to a new Athabasca Railway Syndicate in December 1906, the efforts of that syndicate to acquire government aid, and the acquisition of an option on the syndicate by A.C. Bowen. It also detailed the appearance of W.R. Clarke in Alberta in June 1908, Cornwall's connections to Clarke, and Clarke's negotiations with the government that resulted in Rutherford's letter of November 14, 1908 which pledged the government's support for the project. Details of the agreement, the settling of the specs in October 1909 and the bond sale in November 1909 concluded the chronology.[2]

Scott and Harvey questioned the motives of Cross and Rutherford in negotiating the A. & G.W. deal. They believed that Cushing had been excluded from the negotiations. It was not proved conclusively that Cross and/or Rutherford acted out of personal interest, but Scott and Harvey believed that circumstantial evidence justified the questioning of Rutherford's and Cross' motives. In the case of Cornwall, who was elected M.L.A. for Peace River in March 1909, they considered the evidence to be more than

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[2] R.C. Report, passim. Thomas, The Liberal Party, pp. 97-106 summarizes the majority and minority findings of the commission.

circumstantial. It was established that Cornwall was a business associate of Clarke in June, 1908. They believed that Cornwall, even after his election to the legislature in March, 1909, continued to have a direct interest in Clarke's enterprise.[3]

Beck did not differ significantly from Scott and Harvey on the details of their chronology but disagreed with their conclusions. He did not think it had been proven that Cushing was uninformed about the negotiations. Scott and Harvey considered Cushing innocent of any wrong doing. If Cushing was actually kept informed about the negotiations, however, Beck did not know how they could not consider Rutherford and Cross innocent as well. Beck acknowledged that Rutherford and Cross may not have always made the wisest choices in the negotiations, but did not see any evidence of dubious motives on their part. Beck also did not see any reason to doubt Cornwall's claim that his involvement in Clarke's railway interests ceased in July, 1908.[4]

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[3]R.C. Report, pp. 37-38; Thomas, The Liberal Party, p.104.

[4]R.C. Report, pp. 57-58; Thomas, The Liberal Party, p. 105.

As L.G. Thomas correctly noted, "...the report, admirable as a history of the episode, came to no definite or unanimous conclusion."[5] Even given the different conclusions of the Justices, however, the report was fairly straightforward and easy to comprehend. It is valuable in that it provides an overview for the entire A. & G.W. affair.

The evidence that the Royal Commission heard was not as straightforward or as easy to understand as the report. In fact, the evidence is quite detailed and complex. The commission compiled 3,225 pages of evidence which Thomas dismissed with the following sentence: "To follow the voluminous evidence submitted to the commission would be tedious and unprofitable."[6] There can be no disputing the "tedious" nature of sifting through the evidence but the results can be far from "unprofitable." An examination of the evidence can help to evaluate the relative merits of the majority and minority reports of the commissioners. It can also provide insight into why no definite conclusions were arrived at by the commission.

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[5]Thomas, The Liberal Party, p. 106.

[6]Thomas, The Liberal Party, p. 86.

Finally, it can also bring into question whether the commission even examined the aspects of the A. & G.W. deal that it was ostensibly created to investigate.

It is important to note the commission's mandate before considering the evidence that it heard. The first paragraph of the majority report, submitted to Lieutenant-Governor Bulyea outlined the intended scope of the enquiry. The paragraph read as follows:

> Your Commissioners, appointed by your Commission issued on the 16th day of March, 1910, to enquire "whether any, and if any, which officer or officers of the Government or member or members of the Legislature of the Province were or are interested, either directly or indirectly, by themselves or through others, in the erection, incorporation or organization of the Alberta and Great Waterways Railway Company, or in the making of or entering into or carrying out of a certain contract between the Government of the Province and the Alberta and Great Waterways Railway Company, or the guaranteeing by the province of the securities of the said Company, or the sale thereof, or in the proceeds of or in the amount realized from the disposition or sale of the said securities or otherwise howsoever in connection with the said company and to report thereon for the information of the Legislature,"[7] beg to submit the following report.

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[7] R.C. Report, p. 1.

Thus, the commission was ostensibly established to investigate the question of whether anyone in the legislature had compromised himself or the government in relation to the A. & G.W. In following the testimony that the commission heard, however, it is apparent that the testimony often did not focus upon this question. Instead, the testimony often focussed upon the question of whether or not the province made a good or bad business deal. The commission actually heard more evidence relating to the latter question than the former. Both issues had certainly been prominent in the debate in the legislature but the question of possible wrongdoings by government members or M.L.A.s was intended as the primary topic of enquiry for the commission.

The commission originally sat on March 29, 1910 and for the next two days proceeded with an examination of the evidence that was submitted to it. The commission then adjourned until April 13, 1910. The investigation of the commission was dealt its first setback with the refusal of W.R. Clarke to appear before it and provide testimony. At the time of adjournment it had been fully expected that both Clarke and G.D. Minty would provide testimony. When the commission reconvened, however, Walsh had to inform it

that he had received notice that Clarke had refused to testify and had withdrawn his counsel from the proceedings. Minty, for his part, also refused to testify in Edmonton, but offered his willingness to testify in Winnipeg if the commission would convene hearings in the Manitoba capital.[8]

Walsh's information brought an immediate reply from Bennett. He said that Clarke's refusal was a "wholly not unexpected state of affairs...(and) that the continuance of this investigation will be nothing more than a farce." He also chastized Minty for offering to testify in Winnipeg, where the commission's jurisdiction did not extend to and where testimony could be offered but not compelled. Having the commission without the testimony of Clarke and Minty would, in Bennett's words, "... be an abortive attempt to ascertain the facts. It is almost a public calamity."[9]

Clarke never did appear before the commission. Minty attended the initial examination of evidence prior to refusing to re-appear and testify in Edmonton. Walsh objected to the "grotesque breach of faith" on Minty's part

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[8]Evidence Taken By Royal Commission re Alberta and Great Waterways Railway Company (hereafter cited as Evidence), pp. 233-235.

[9]Evidence, pp. 235-236.

and the handicap which the commission would have to endure as a result of his refusal to testify in Edmonton.[10] After convening its hearings in Winnipeg, however, the commission was eventually able to hear Minty's testimony.

When Minty did testify, he said that he did not have any prior knowledge of Clarke's decision not to testify. He did know that Clarke boarded a train for Edmonton, intending to testify but on the trip Clarke changed his mind and disembarked at Moose Jaw. Minty said he later found out that Clarke changed his mind because he feared that men like Bennett, driven by political considerations, would make the Royal Commission a political charade. Clarke feared they would leave the mandate of the commission to attack his personal affairs.[11] While it is easy to be critical of Clarke for not attending the proceedings, his fear was not totally irrational. In hindsight, the commission did hear more testimony about Clarke and his dealings than about the motives of anyone in government and/or the legislature.

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[10] Evidence, p. 289.

[11] Evidence, pp. 1759-1763.

That Clarke did not testify was certainly regrettable; he was a central figure in the A. & G.W. affair and no doubt he could have offered insight into the entire matter. It is questionable, however, whether his insight would have been more relevant to his companies and the terms of his deal with the government or to alleged wrongdoings on the part of government members.

Short of actually providing the names of everyone with an involvement in his railway interests, there was likely very little that he could reveal about the motives of government members or M.L.A.s. He could offer information about the higher terms of the A. & G.W. guarantee, the negotiations involved in the bond sale, the relationship of the A. & G.W. to the Canada West Construction Company (C.W.C.), or the $50,000 in paid up capital that the A. & G.W. was required to possess. It proved to be impossible to know the amount of money Clarke actually spent on the A. & G.W., or the amount of money he personally made from it without his sworn testimony. Clarke could have expounded on the need for his company, or any company for that matter, to try to negotiate the most advantageous terms it could for itself. In short, Clarke could have revealed a great deal about the way he organized his business matters; his failure

to testify meant that many of these details would remain unknown. His failure to testify did not need to mean, however, that the commission should have been unable to address the issues in its mandate. The commission did not need to be the "farce" or the "public calamity" to which Bennett had referred.

It must be remembered that the Alberta government was not the only government in North America to equate the building of railways with growth and prosperity. In addition, it only turned to Clarke to construct the line when it became obvious that the C.N.R. and G.T.P. were over-extended and unable to take on the new committments. Still, the government did not make any independent checks of his background or his financial standing. The only references that it had for Clarke were ones that Clarke himself produced.[12] Although it is difficult to fault the government's enthusiasm, it is equally difficult to arrive at any conclusion other than that they made a questionable business deal at best and a bad one at worst. This

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[12]Evidence, p. 2256 & p. 2351, (testimony of Rutherford); p. 2480 & p. 2504, (testimony of C.W. Cross). Both Rutherford and Cross confirmed that the only documents they saw, vouching for Clarke's character, were given to them by Clarke or one of his associates. Cross also said that the government accepted Clarke's offer because it was the only one on the horizon, p. 2681.

conclusion was made apparent initially in the debate in the legislature and then confirmed in testimony heard by the Royal Commission; Clarke's testimony was not needed to confirm it.

The least dubious aspect of the government's deal was guaranteeing the A. & G.W. bonds for $20,000 per mile. The guarantee was justified by the precedent of both the Ontario and Manitoba governments having offered guarantees of that size. In addition, the higher guarantee was justified by the different landscape that the A. & G.W would traverse in comparison to the C.N.R. and G.T.P. branch lines. While the commission heard cost estimates ranging from $6,000 to $30,000 per mile, the government could not really be faulted for the amount of the guarantee.

In setting the interest at 5%, however, the government could be faulted. Both Rutherford and Cross justified the 5% interest rate by the fact that the A. & G.W. was a colonization railway.[13] The 5% rate would make up for the relatively small amount of traffic that line would have in its early years. The commission heard evidence to refute this logic. A financial authority

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[13]Evidence, p. 2272 & p. 2448, (testimony of Rutherford); p. 2637 (testimony of Cross)

testified that although there could be no disputing that the line would not have had that much traffic in its period of infancy, there was no reason to believe that prospects for traffic should have affected the sale of the bonds. Instead, it was more likely that investors would have concerned themselves with whether or not there was a government guarantee, rather than the territory the line was built upon.[14] It should also be noted that 4% guarantees given to the C.N.R. and G.T.P. were far more representative of the 1909 bond market than the rather exceptional 5% guarantee given to the A. & G.W.[15]

The government's reason for offering a 50 year term to the A. & G.W. and a 30 year term to the other lines was simple. Rutherford said that the government gave the

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[14] Evidence, p. 1997 (testimony of H.P. McMahon, Mgr. of the Traders Bank in Winnipeg) offered the view that the government guarantee was more important than the nature of the line, although on p. 2003, he admitted he could not conclusively say what British investors would deem important. He was questioned on these points by Justices Harvey and Beck.

[15] Frederick R. Macaulay, The Movement of Interest Rates, Bond Yields and Stock Prices in the United States Since 1856 (New York: National Bureau of Economic Research, 1938), passim. Macaulay paid special attention to the performance of railroad bonds.

terms that each of the lines asked for.[16] The A. & G.W. received a longer term because it asked for one. While Clarke cannot be blamed for asking for the most favorable terms he could get, the government might have been wise to do more than simply give the railways the terms that were asked for.

One can also wonder why the government waited until February 1910 to appoint a government railway engineer to oversee the A. & G.W. Rutherford rationalized the delay by the fact that neither the A. & G.W., nor the C.N.R., nor the G.T.P. had actually commenced construction of their lines by January 1, 1910. There was no real need for a railway engineer until the lines began construction.[17] It is difficult, however, to follow the logic of such an argument. The subject of a railway from Edmonton to Fort MacMurray was first discussed between Clarke and the cabinet in July 1908. Clarke had men surveying the north as early as the fall of 1908. Rutherford pledged government support in November 1908. Legislation was assented to in February 1909 and the A. & G.W. bonds were sold in November 1909.

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[16] Evidence, p. 2363-2364 (testimony of Rutherford).

[17] Evidence, p. 2323 (testimony of Rutherford).

Contrary to Rutherford's view, there was a role for a government engineer to play prior to the beginning of construction. Without an engineer of its own, the government was forced to accept the reports of Clarke and his engineers at face value. It would have been wise to at least have someone confirm the reports and estimates that Clarke presented.

The government also might have been wise to be represented in the negotiations to sell the A. & G.W. bonds. Clarke negotiated the sale of the bond at par Canadian terms. There is no proof that he had any part of the later offer by the Morgans to resell the bonds at 110 although such an accusation was made by numerous people. Clarke's testimony should have been able to offer insight into the bond sale. He might have been part of a syndicate to "rake off" the extra 10% from the subsequent bond sale, or he may have simply undervalued the bonds himself in making the sale. In any event, a week after the bonds were initially sold, the bonds were offered for sale for 10% more than the

government realized on its sale of them.[18] Had the government had representation in negotiating the bond sale, it may have realized that par was too small a return on the bonds.

The government also knew very little about the nature of the Canada West Construction Company. It was a construction company formed to build the A. & G.W. W.R. Clarke was not formally connected with the C.W.C., but his brother, B.R. Clarke, was president of the company. W.R. Clarke was, however, acting treasurer of the C.W.C., and did exercise a power of attorney regarding his brother's interests. It was arranged that the C.W.C. would receive the full proceeds of the bond sale from the A. & G.W. in return for the construction of the line. Cross, however, denied ever even having heard of the C.W.C. prior to it being mentioned in testimony given before the commission. This is an indication of just how little the government actually knew about the C.W.C., even though it had such a

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[18] Evidence, p. 2306 (testimony of Rutherford). Rutherford said Clarke revealed little, if any information about negotiations for the bond sale. Also see p. 2521 & p. 2558, (testimony of Cross). Cross knew Clarke had made arrangements with the Morgans, but denied knowing what the arrangements were. P. 2561, Cross said he asked Clarke about the rumor of a "rake-off" on his part; Clarke denied it. He repeated the same claims, p. 2665-2668. Cross consistently denied any knowledge of the negotiations of the bond sale.

large interest in the A. & G.W.[19]

The government was equally uninformed about the $50,000 in paid up capital that the A. & G.W. was required to have. It heard criticism that $50,000 was not enough paid up capital for a company with $7,400,000 in total capital. It is questionable whether or not $50,000 was enough paid up capital for the A. & G.W. to possess. What is not debatable, however, is that the $50,000 did not even exist. Clarke arranged for an overdraft of $50,000 from the Merchants Bank in Edmonton. He then deposited the overdraft to the credit of the A. & G.W. Fifteen minutes later, the A. & G.W. voted Clarke $50,000 for various unspecified expenses. Using the $50,000 that the A. & G.W. voted him, Clarke repaid the overdraft the next day.[20] Why the government thought $50,000 in paid up capital was enough is immaterial; that they did not know the $50,000 did not even

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[19] Evidence, p. 2561 & p. 2609 (testimony of Cross).

[20] Evidence, pp. 2108-2142 (testimony of A.C. Fraser, Mgr. of the Merchants' Bank in Edmonton). Fraser gave details of Clarke's overdraft transactions. He said the transactions were carried out on his own personal authorization, in the hope of having the proceeds of the A. & G.W. bond sale deposited in his bank. He later said that, "If Minty or Clarke had been rogues they could have done me up."(p. 2160) He did not get "done up"; no part of the $50,000 ever actually entered or left the bank. Neither Rutherford nor Cross commented in his testimony about the existence of the $50,000 in paid up capital that was required of the A. & G.W.

exist shows poor business acumen.

Thus, although Clarke's testimony may have been valuable in showing how good a deal he made (and conversely how bad a deal the government made), it was not essential. That the government made a poor business deal was shown clearly enough without his testimony. The failure of Clarke to testify was not as significant a handicap in the commission's investigation as was first feared. The lack of Clarke's testimony did not significantly hinder the commission's investigation of whether or not the government made a bad deal.

As noted previously, however, the real mandate of the commission was to investigate possible wrongdoings on the part of government members or M.L.A.s with regard to the A. & G.W. This phase of the investigation also should not have been doomed to failure by Clarke's failure to testify. The Justices, nonetheless, were clearly unable to agree about whether or not any wrongdoing had taken place. An examination of the testimony that the commission heard can help to explain why, if Clarke's testimony was not crucial, the commissioners were unable to conclusively answer allegations of wrongdoings.

J.R. Boyle, R.B. Bennett and W.H. Cushing had been

the key opponents of the A. & G.W. in the debate in the legislature. C.W. Cross and A.C. Rutherford were the key defenders of the government's A. & G.W. deal. J.K. Cornwall, for his relationship to the Athabasca Railway Syndicate and subsequent dealings with Clarke, became a central target for the Insurgents as well. One would expect that the testimony of these six men would be essential in attempting to prove or disprove allegations of wrongdoing. Apparently, however, the commissioners did not hold the same expectations.

Cornwall's examination by the commission was quite complete, as was Rutherford's examination. The same could not be said for the examination of the other four men. The commission avoided asking Cross about contentious issues mentioned in the testimony of others, and as a result received a less than complete view of his involvement in the A. & G.W. affair. The testimony of W.H. Cushing was also most disappointing, although this was not because of a failure to ask him pertinent questions. Instead, it was disappointing because Cushing often seemed to possess a selective memory and was on many occassions contradicted by the testimony of numerous other witnesses. The testimony of J.R. Boyle was an even greater disappointment. Boyle was

essential in the attack upon the A. & G.W. in the legislature. There were, however, many issues upon which one could question Boyle's motives. Unfortunately, the commission ran out of time and was only able to ask Boyle the most basic of questions. The testimony of Bennett was more than disappointing; it was non-existent. Although he appeared as counsel for the Insurgents, Bennett did not offer his own sworn testimony. Bennett and Boyle made it obvious in the legislature that they were very familiar with many aspects of tha A. & G.W.. It would have been advisable for the commission to find out why Boyle and Bennett were so convinced that wrongdoing had been done and then to weigh the merits of their cases. Instead, the commission heard little testimony from Boyle, and none from Bennett.

Thus, the commission had only itself to blame for failing to uncover or refute possible wrongdoing on the part of government members or M.L.A.s. The outright refusal of some individuals to testify did not hinder this aspect of the investigation as much as may be thought; the failure to properly direct the questioning of the individuals that were available was a far greater hindrance.

As noted above, the examination of J.K. Cornwall was very thorough. Cornwall's testimony was the first that

the commission heard after its examination of evidence.[21] The majority of his testimony focussed upon his relationship to the Athabasca Railway Company (A.R.C.). Cornwall, along with four other men, incorporated the A.R.C. on May 16, 1905. All of the others held only nominal interests in the company. On October 29, 1906, he sold an option on the A.R.C. to a syndicate headed by W.A. Faulkner, of Winnipeg. Cornwall agreed with Walsh's assessment that at the time of the sale, "the only asset of the company was its charter and (his) unbounded faith."[22] He was paid $2500 for the option and remained part of the new Athabasca Railway Syndicate (A.R.S.).

The A.R.S. approached the government in January 1907 with the hope of gaining government assistance but were quickly rebuffed at their initial meeting. Cornwall recalled that the A.R.S. attempted to add local investors to its composition in order to create a better impression at any possible future meetings with the government. Most notable among the locals that the syndicate courted was John

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[21]Evidence, pp. 297-625 (testimony of Cornwall). Cornwall was examined by Walsh, pp. 297-411 and cross-examined by Bennett, pp. 411-625.

[22]Evidence, p. 303 (testimony of Cornwall).

McDougall of Edmonton. Cornwall testified that McDougall and the other Edmonton interests turned the sydicate down when it became apparent that they would not be able to acquire controlling interest in it. W.A. Faulkner and Alfred Hawes, both fellow members of the A.R.S., confirmed Cornwall's testimony.[23]

Cornwall had an arrangement with the syndicate whereby he would be compensated in the event that he succeeded in attracting government assistance. Initially he was to receive $544,000 worth of stock out of a total of $2,000,000 total stock in the A.R.S. The agreement was later adjusted downward to a total of $100,000 in stock. In spite of these arrangements, Cornwall denied ever approaching anyone from the Alberta government with a specific request for government assistance. Any reference he made to govenment aid was made only in the most general of terms.[24] That Cornwall did not approach any member of the government about assistance was subsequently confirmed

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[23] Evidence, pp. 310-312 (testimony of Cornwall); pp. 1818-1819, & pp. 1873-1876 (testimony of Faulkner); & pp. 2048-2053, & p. 2090 (testimony of Hawes). [24] Evidence 468 (testimony of Cornwall).

by the testimony of Rutherford, Cross, and Cushing.[25] Not surprisingly, Cornwall was unable to acquire assistance from either the Alberta or Dominion government.

Cornwall first met Bowen in the spring of 1908. On July 20, 1908, he had an agreement completed whereby he would transfer his interests in the syndicate to Clarke, although he did not actually turn the agreement over to Clarke until February 1909. In return, Cornwall was to receive $25,000 to invest in his steamship company from Clarke. Cornwall actually received $14,500 from Clarke in connection with this transaction, which he claimed severed his ties with Clarke's railway interests.[26]

Cornwall admitted he saw Cross in New York City, in early November 1909. He admitted that he had been a longtime personal friend of Cross but denied that they ever discussed business with one another. He and Cross went to New York to observe an election; it was only coincidence that the bonds were sold in New York City at the same time that they were there. Cornwall re-asserted he was in the

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[25] Evidence, pp. 2242-2246 (testimony of Rutherford); pp. 2464-2467, & pp. 2621-2624 (testimony of Cross); & pp. 2704-2707 (testimony of Cushing).

[26] Evidence, pp. 346-371, pp. 482-486, & pp. 550-561 (testimony of Cornwall).

steamship business by November, 1909. Railway interests were not his affair anymore. The only interst he had was in the general growth and development of the north.[27]

Cornwall also denied ever having heard of the C.W.C. until it was mentioned in the legislature in February, 1910. He denied at any time having been a go-between for Rutherford and W.R. Clarke although a letter written by Minty to B.R. Clarke gave that distinct impression. Cornwall did not know where Minty received such an impression from, but flatly denied it.[28] Much of what Cornwall revealed under questioning from Walsh was later repeated under questioning from Bennett.

There are several significant factors to take note of in Cornwall's testimony. One is that the majority of his dealings with the Athabasca Railway and Clarke were arranged prior to his election to the legislature on March 22, 1909. In fact, he claimed to have sold his railway interests to Clarke in exchange for financing a steamship company no later than February 1909. While other testimony did not confirm this transaction, it did not deny it either. The

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[27]Evidence, pp. 379-385, & pp. 563-591 (testimony of Cornwall).

[28]Evidence, pp. 388-402, & pp. 541-547 (testimony of Cornwall).

best that fellow syndicate members could say was that they did not know of any members of the syndicate disposing of their interests. It is quite possible then, that Cornwall had disposed of all of his connections to the A. & G.W. prior to becoming an M.L.A. The mandate of the Royal Commission was to investigate the behavior of M.L.A.s or government members regarding the A. & G.W. In the case of Cornwall, however, it concerned itself largely with his business associations which ceased prior to his election as M.L.A. for Peace River.

Bennett noted that Cornwall unabashedly, albeit unsuccessfully, promoted a railway for the north between 1905 and 1909. He doubted the truth of Cornwall quietly disposing of his interests to Clarke on the eve of legislation for such a line being passed. If one considers the earlier interests of Cornwall, however, his explanation that he sold his interests to Clarke because he lost the mood for them was not that out of character.[29] As

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[29] Evidence, pp. 595-597 (testimony of Cornwall) for the exchange noted above. Also see Evidence, pp. 297-299 for Cornwall's opening testimony in which he noted that he had gone north for the Klondike Gold Rush, shifted to fur trading and by 1905 had developed an interest in both steamships and railways. Also see J.G. Macgregor, Peace River Jim: Apostle of the North (unpublished manuscript on Cornwall, deposited at the P.A.A, Access. #84.378, Box #4, Item #39), passim. Macgregor created the impression that there were very few enterprises in the north that Cornwall did not have a hand in. Railways were not Cornwall's sole [illegible]

previously noted, while Cornwall did desire a railway from Edmonton to Fort MacMurray, he does not appear to have ever actually approached anyone from the government about possible assistance. Although he may have hoped to see the railway built, he did little to encourage its construction. In fact, it is questionable how serious he was about actually building the line.

The commission only heard evidence from one more representative of the government before moving its hearings to Winnipeg and concentrating upon testimony from railway men. The evidence that it heard was provided by S.B. Woods, who served as Deputy Attorney General under Cross.

Woods denied having any association with the A.R.S.; he and Cornwall may have generally discussed the riches of the north, but never in relation to any specific project. As early as October, 1908, however, he represented the government in its negotiations with Clarke's railway interests. He and Minty, on behalf of Clarke, negotiated the general terms for a bond guarantee and a mortgage for a potential railway from Edmonton to Fort MacMurray. They concentrated primarily on the form, rather than the content of any possible guarantee and mortgage.[30]

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[30]Evidence, pp. 961-972, pp. 1045-1065, & pp. 1086-1095 (testimony of Woods).

These negotiations were followed by Clarke's meeting with the cabinet on November 14, 1908. Woods said it had been his responsiblity to explain the form of the agreements to the cabinet ahead of time, which he did. He distinctly recalled that Rutherford, Cross, Cushing and Finlay represented the government while Clarke and Waddell represented Clarke's railway interests. Woods said that he, Minty, and J.W. Stocks, from the Department of Public Works, were all available in case they were needed to be consulted. He said that Stocks was the only one of them, however, that actually attended any part of the meeting. Woods said that he understood that a guarantee for $20,000 per mile for the entire line, bearing 5% interest for a 50 year term was agreed to at this meeting. Woods also added that he was responsible for drafting the letter that pledged government support for the project, which Rutherford signed and gave to Clarke after the meeting.[31]

Woods did not recall Clarke, Waddell, and Minty meeting with the government after Novemebr 14, 1908. He acknowledged that he and Minty became close personal friends, but denied that this was based upon the A.P. & G.W.

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[31]Evidence pp. 972-985, & pp. 1066-1094 (testimony of Woods).

He said that some of his telegrams to and from Minty may not have appeared in his files because they may have been sent from or received at his home instead of his office. He also did not file any telegrams that he considered to be of a personal nature. Woods said that any telegrams he sent to Minty on behalf of Cross were due simply to Cross' anxiety to have the line built as soon as possible. Woods claimed that, although he listened to Minty's advice on many matters pertaining to the railway, he actually rejected more of it than he accepted. He also strongly denied Bennett's interpretation that he had in any way acted as an agent for Minty. Woods said that he always tried to be helpful in dealing with Minty, but no more so than when he dealt with anyone else.[32]

Woods denied taking any part in the negotiation of the specs for the A. & G.W. in October 1909. He also did not know anything about the two meetings held in October 1909 to organize the A. & G.W. He did know, however, that the railway men were in a hurry to actually incorporate the A. & G.W. because the agreement that Clarke had negotiated with the Morgans to sell the bonds expired on November 1,

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[32]Evidence, pp. 985-1013, pp. 1074-1085, & pp. 1116-1128 (testimony of Woods).

1909. Woods said that he and Deputy Provincial Treasurer M.J. McLeod accompanied Clarke and his entourage to New York City to execute the sale of the bonds on November 1, 1909. The proceeds of the bond sale were to be deposited to the credit of the Provincial Treasurer of Alberta. He said that it was mentioned that the Morgans would likely resell the bonds for greater than par, but no specific amounts were mentioned. Woods considered it the prerogative of the Morgans to resell the bonds for whatever they deemed appropriate. The bonds were actually turned over to the Morgans on November 5, 1909. Woods said that he saw Cross, but not Cornwall, in New York. He said that Cross did not take part in the sale of the bonds and, in fact, Cross was quite surprised to see him in New York.[33]

Woods also revealed that he had drafted the original copy of Clarke's recent letter offering better terms. He said he sent a copy of the letter to Clarke as a suggestion to help calm the storm in the legislature. Clarke adapted the letter before sending it to Rutherford. Woods said that he was completely confident that Clarke would fully honour the terms of the better offer. He

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[33]Evidence, pp. 1014-1042, & pp. 1136-1143 (testimony of Woods).

concluded by stating that the government made the best deal that it could bargain for. A better deal could have been imposed, but this did not reflect the reality of the negotiations.[34]

Woods' testimony concluded the commission's hearings in Edmonton on April 22, 1910. Four days later it reconvened in Winnipeg and heard evidence from private individuals who had been associated with the A.R.S. and/or the A. & G.W. The commission also heard evidence in Toronto on May 9, 1910. None of the evidence given in Winnipeg or Toronto was given by anyone representing the government. The commission returned to Edmonton and reconvened its hearings on May 17, 1910. It then shifted its attention more directly to testimony given by government representatives.

Rutherford was the first member of the government examined after the commission returned from Toronto. His evidence was very complete and was carried out without any hitches. He remembered being approached by a delegation on behalf of the A.R.S. in early 1907 and that Cornwall and McDougall were part of the delegation. He did not remember

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[34]Evidence, pp. 1144-1155 (testimony of Woods).

who introduced the delegation to the cabinet, but thought it was either McDougall or J.R. Boyle. Rutherford said the delegation was rebuffed before it ever made a formal application for government assistance, and he did not remember being approached by anyone from the A.R.S., including Cornwall, subsequent to this one meeting.[35]

Rutherford first remembered meeting Bowen in June 1908. Bowen introduced Clarke to the cabinet, in Calgary, one month later. The entire cabinet was present and it offered Clarke encouragement to commission a reconnaissance survey of the north, but did not offer any definite assurance of government assistance.[36]

Rutherford next recalled meeting Clarke in Edmonton, in October 1908. He was introduced to J.A.L. Waddell as Clarke's Chief Engineer but did not see Bowen. In fact, he did not recall ever seeing Bowen again. The cabinet met Clarke and Waddell on two occasions in November. The first meeting was November 7, 1908 and was very brief. Clarke and Waddell had yet to digest the contents of the

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[35]Evidence, pp. 2231-2246 (testimony of Rutherford). Under questioning from Bennett, Rutherford provided a brief chronological summary of his entire testimony, pp. 2436-2455.

[36]Evidence, pp. 2246-2256 (testimony of Rutherford).

report on the reconnaissance survey that Clarke had commissioned. Rutherford recalled instructing Cushing to have engineers meet with Waddell, but did not know if this was done or not. Clarke and Waddell presented a cost estimate of $26,000 per mile at the second meeting, which took place on November 14, 1908. They then requested a government guarantee of $24,000 per mile; the government responded with a counter offer of $13,000 per mile. Eventually $20,000 per mile was settled upon. The cabinet realized that 5% interest was high, but deemed it necessary because the A. & G.W. was a colonization railway. The meeting concluded with Rutherford giving Clarke a letter that offered to promote legislation at the upcoming session of the legislature. A draft act of incorporation and a draft act of a bond guarantee were also enclosed. Rutherford understood that Clarke needed the letter to attract potential investors.[37]

Rutherford decided after the November 14, 1908 meeting that the administration of railways should be transferred from the Department of Public Works to his own supervision. He considered the Department of Public Works

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[37]Evidence, pp. 2257-2289 (testimony of Rutherford).

to be overworked, and thought that railways were an important enough issue that policy should be voiced from the office of the Premier. Rutherford did not specifically tell Cushing about the change but thought Cushing must have realized the change was imminent. In fact, the first time that Rutherford specifically mentioned the change was when the move was formally announced in the legislature.[38]

The A. & G.W. legislation was passed in February 1909 without any problems. After the legislation was passed, Rutherford recalled Clarke informing him that they could probably realize 97 on the bond sale; he responded that 97 was not good enough. It was the only memory Rutherford had of Clarke ever mentioning anything about the bond sale to him.[39]

Rutherford testified that he, Cross and Cushing were present at a cabinet meeting on October 7, 1909 at which the final specs for the line were settled. He admitted to receiving a letter objecting to the specs from Cushing prior to the meeting but nonetheless, everyone agreed to the specs that were adopted at the meeting.

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[38] Evidence, pp. 2291-2296 (testimony of Rutherford).

[39] Evidence, pp. 2301-2304 (testimony of Rutherford).

Although Rutherford presided at the meeting at which the specs were adopted, he had not taken part in the negotiations concerning them, nor had he heard the details of such negotiations. He denied that adopting the Crow's Nest Pass specs was an insult to John Stocks and John Chalmers, two engineers in the Department of Public Works. Rutherford denied ever being told the inherent weaknesses of the specs or hearing criticism about them from either man.[40]

Rutherford again expressed surprise at Cushing's resignation. He said he had no indication of Cushing being unhappy with the legislation prior to his resignation. There was discussion but no dissent expressed at the October 7, 1909 cabinet meeting. In Rutherford's words, "There was no one blind as to what occurred." The A. & G.W. was not discussed by the cabinet between October 7, 1909, and the opening of the legislature in February 1910, although the documents pertaining to it were available to anyone in the cabinet that wanted to see them. Rutherford said that if Cushing did not know the full details of the legislation it was his own fault and not the fault of Rutherford or anyone else.[41]

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[40] Evidence, pp. 2309-2315, & pp. 2325-2342 (testimony of Rutherford).

[41] Evidence, pp. 2405-2417, & pp. 2455-2458 (testimony of Rutherford). The quote appears on p. 2417.

Thus, Rutherford's testimony was fairly straight forward. The actual sale of the A. & G.W. bonds was the one issue that he did not offer testimony about, but there is no reason to assume that Rutherford was attempting to cover anything up. Much of what Rutherford said was confirmed by the testimony of others, especially Cross. Weaknesses in the testimony of others became apparent when they either could not recall, or were not even asked about, issues that Rutherford's testimony included. The cross-examination offered by Bennett was not simply a rehashing of Johnstone's examination, as was often the case with other witnesses. The result was a fairly complete testimony given by the Premier.

Rutherford's testimony was followed by that of Cross. There was evidence to indicate that Cross had a more direct relationship to the A.R.C., the A.R.S., and the A. & G.W. than Rutherford. In May, 1905, he had been the lawyer who organized the original incorporation of the A.R.C. Cross claimed that his connection to the A.R.C. ceased after he became Attorney General of the Province in September, 1905. While the A.R.C. did remain clients of the law firm Short, Cross and Biggar, it was O.M. Biggar who took over the solicitorship of the company. Cross and Cornwall had

also been personal friends for years and partners in land deals.[42] Thus, the reason for the insinuation that perhaps Cross knew more about the business of the various railways than Rutherford.

Cross, like Rutherford, recalled being approached by a delegation from the A.R.S. in January 1907. He remembered Cornwall and McDougall, among others, in the delegation but did not remember Boyle being part of it. Cross said that the delegation was turned down before it ever made a formal application for government assistance and that he heard nothing further from the A.R.S. pursuant to the one meeting. Cross denied ever seeing a draft agreement between the A.R.S. and the government that was prepared by Biggar and dated January 22, 1907. The document did exist but many witnesses confirmed that it was never presented to the government.[43]

Cross confirmed that he first met Bowen in June, 1908 and that the cabinet met Bowen and Clarke in July 1908,

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[42] Evidence, pp. 2459-2461 (testimony of Cross).

[43] Evidence, pp. 2462-2469 (testimony of Cross); pp. 436-441 (testimony of Cornwall); pp. 1815-1818, & pp. 1870-1873 (testimony of Faulkner); pp. 2041-2043, & p. 2089 (testimony of Hawes). Cornwall, Faulkner and Hawes all remembered the draft agreement being drawn by Biggar but none remembered the document actually being submitted to the government.

in Calgary. Cross' testimony regarding this meeting did not differ from the testimony of Rutherford. His testimony about meeting Clarke and Waddell in October, 1909 and the cabinet's meetings with them in November 1909, did not differ either. Cross said that the government had already decided to offer Clarke a bond guarantee prior to the meeting on November 14, 1908; only the amount of the guarantee remained undecided. He said that he was assured by John Stocks, at the November 14, 1908 meeting that $20,000 per mile was a reasonable amount for the guarantee. Cross also said that no one in the cabinet, himself included, had any idea that Clarke's enterprise was related to Cornwall or the A.R.S.[44]

Cross had no distinct memory of anything surrounding the passing of the A. & G.W. legislation on February 25, 1909 or of Clarke or Minty taking any part in the election campaign of March, 1909. He went to Winnipeg, Chicago and New York after the election and although it was not planned on his part, met Clarke in New York. Documents in evidence indicated that Clarke planned on the meeting,

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[44] Evidence, pp. 2471-2508, & pp. 2626-2633 (testimony of Cross). Stocks later denied ever telling anyone that $20,000 per mile was a reasonable amount, pp. 3118-3119 (testimony of Stocks).

even if the Attorney General did not. Clarke needed someone to introduce him to the Dominion government in the hope of acquiring a Dominion subsidy for his railway. Cross obliged, but did little other than introduce Clarke to Frank Oliver, Minister of the Interior, and George Graham, Minister of Railways. Cross denied seeing Clarke again between April and October of 1909.[45]

Cross also denied taking any part in the negotiation of the specs. He recalled that all of the cabinet, except W.T. Finlay, attended the meeting at which the specs were decided upon on October 7, 1909. Everyone, including Cushing, agreed to the specs; Cross did not know of Cushing's letter to Rutherford objecting to them.[46]

Cross claimed that any private communication that he had with Clarke was due solely to his anxiety to have the railway completed as soon as possible. The construction of the railway had been one of his election promises in March, 1909. Any attempts to contact Clarke were made in an effort to speed up the fulfilment of that promise.[47] Bennett

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[45]Evidence, pp. 2513-2525 (testimony of Cross).

[46]Evidence, pp. 2538-2547, & pp. 2587-2601 (testimony of Cross).

[47]Evidence, pp. 2520-2530, & pp. 2602-2609 (testimony of Cross)

repeatedly questioned whether Cross received any money or benefit from Clarke or any of his associates in return for supporting the A. & G.W. deal. After repeatedly denying different versions of the same question, Cross finally offered the statement that, "I never got five cents of money from Mr. Clarke or his company at any time and you can make that just as strong and as broad as you can make it."[48]

Cross' testimony indicated that he did not know of Cornwall's connection to the A.R.S., let alone any possible connection Cornwall may or may not have had to Clarke's railway interests. He also indicated that he did not have any closer relationship to Clarke than any other member of the government and that he most assuredly had not received any financial contributions from Clarke or his associates. On the surface then, Cross appeared as innocent of any wrongdoing as Rutherford.

There are problems, however, in arriving at such a conclusion. The questions that were not asked of, and about Cross are in many ways as interesting as the ones that were asked. For example, O.M. Biggar, although scheduled to

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[48]Evidence, pp. 2620-2621 (testimony of Cross). The quote appears on p. 2620. Cross later reiterated this point and also denied any knowlwdge of any government members or M.L.A.s receiving any benefit from Clarke, pp. 2678-2681.

testify did not do so. He was unable to testify because of an operation that he had to undergo. Rather than further delaying the commission's already late report by waiting for his recovery, it was decided that the hearings would close without his testimony. Walsh said that he did not expect Biggar to reveal anything that had not already been touched on by other witnesses.[49] This was, for the most part, a reasonable assumption for Walsh to make although Biggar was a partner in a law firm with Cross and solicitor for the A.R.S. He might have been able to shed some light on how much, if anything, Cross knew about the A.R.S. In essence Biggar could have established the veracity of Cross' claim that he knew nothing of the A.R.S. after January, 1907. While Biggar's testimony may have helped to illuminate Cross' testimony somewhat, the lack of his testimony was really only a minor flaw in the investigation of the commission. A far more glaring oversight by the commission was the failure to examine fully Cross' complete relationship to the A. & G.W. affair.

J.A. Mackinnon was the Right of Way Agent for Clarke, a position which he had held since October, 1909.

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[49] Evidence, pp. 3220-3221 (statement of Walsh).

He was not certain whether he worked for the A. & G.W. or the C.W.C., but knew that he worked for Clarke. It was not Mackinnon's testimony about his work, however, that was most revealing. Instead, it was his testimony about a late night rendezvous with J.M.Thom, who was Cross' private secretary, that was most interesting.

Mackinnon testified that Thom asked him to go for a drive at approximately 11:00 p.m., March 8, 1910. After driving around town for a short time, Thom mentioned that he needed to stop by the legislature to open some letters, if it was not too great of an inconvenience to Mackinnon. After opening some letters, Thom asked if Mackinnon would help him remove approximately 15-20 boxes of Cross' personal files. Mackinnon agreed and called for a second truck to help carry the files away. Mackinnon said the files were taken to Thom's home, and he never saw the files again. Mackinnon did not think the removal of the files was premeditated, but admitted that Thom had not called on him to "go for a drive" before or since that one evening.[50]

Mackinnon's story of his late night adventure was verified by John Southworth. Southworth was the driver of

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[50]Evidence, pp. 935-945 (testimony of Mackinnon).

the second truck that Mackinnon called for to help remove the files. Southworth said that he held the horses and did not actually help in the removal of the files. He could not confirm that the files were taken to Thom's house because he did not know where Thom lived. He also did not recall the number of files that were taken. He did essentially confirm, however, that late on the evening of March 8, 1910, Thom and Mackinnon transported files away from the legislature and to a private residence.[51]

The truth of the story was further attested to by Thom himself, although he stressed that the removal of files was merely an afterthought. Thom said he originally went to see Mackinnon about matters involving the Liberal Club. He denied that there was anything devious about the removal of the files. There was no sneaking around even though the files were removed at midnight; the lights of the office were fully lit. Thom stressed that only dead files were removed. All of the files were personal, and not official in nature. He said that approximately 250 files were removed. A few days later Thom transfered the files from his home to Cross' home. When Thom asked the Attorney

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[51]Evidence, pp. 947-951 (testimony of Southworth).

General if he was going to "take care" of the files Cross simply responded, "Yes." Thom never saw the files again although he understood that Cross offered to make the files available to Walsh if he wished.[52]

Thus, it was established that approximately 250 files were removed from Cross' office on March 8, 1910. The removal was completed at a time when the legislature was in crisis over the A. & G.W. affair. It was also completed one day before Cross offered his resignation to Rutherford over the invitation to Cushing to re-enter the cabinet. It would seem natural that the commission should have questioned Cross about the removal of the files, especially in view of persistent accusations that the government files tabled before the House were incomplete. Such was not the case.

The testimony of Mackinnon and Southworth was offered well in advance of the testimony of Cross. Thus the revelation that files had been removed from the Attorney General's office was not something that occurred after Cross testified. It is strange then, that there was not one mention of the removal of files from Cross' office during his examination by Walsh or his cross-examination by

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[52]Evidence, pp. 3167-3172 (testimony of Thom).

Bennett. Cross offered two hundred and twenty-eight pages of testimony with not a word about the removal of files from his office. The commission was very negligent in not asking Cross why files were removed from his office, what the the files contained, and what Cross did with them subsequent to their removal from his office. The commission was also negligent in that it made no mention in the report it submitted to the legislature of files having been removed from Cross' office.

On the surface, Cross had a greater circumstantial connection to Cornwall and the A.R.S. than Rutherford, although there was no evidence to indicate that the connection was in any way direct. The files may have been simply personal in nature and they may have been only "dead files," but the commission cannot have been certain of this without questioning the events of the evening of March 8, 1910. A suspicious mind could assume that any evidence of a more direct connection that Cross possessed was removed when the two wagon loads of files were taken from his office. This assumption may very well have been proven wrong but the notion that the commission did not at any time entertain it seems preposterous. Once again it is important to remember that the mandate of the commission was to investigate

possible wrongdoings on the part of government members or M.L.A.s. Had the commission questioned the removal of the files it could have attempted to prove or disprove whether Cross had done anything wrong or was deviously motivated in having files removed from his office. Unfortunately, it chose not to do so.

Thom's evidence was heard after Cross' testimony. Thus, although Thom's testimony largely confirmed the testimony of Mackinnon and Southworth, the commissioners cannot be faulted for failing to question Cross about Thom's testimony. It is interesting to note, however, that Thom understood Cross was willing to make the files that were removed available to the commission for private examination. Not one member of the commission responded to this statement. It was neither confirmed nor denied that Cross had offered to make the files available. It was as if Thom had never mentioned the removed files and the commission in the same thought.[53] The behavior of the commission in investigating the removal of files from Cross' office distinctly strayed from its mandate. Rather than exploring Cross' motives in having the files removed, the commission

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[53] Evidence, p. 3171 (testimony of Thom)

simply left the question untouched and unanswered.

W.H. Cushing followed Cross in giving evidence before the commission. It was his resignation that had really set off the debate about the A. & G.W. in the legislature, although as discussed in the previous chapter, Cushing did not advance the debate much beyond his resignation. The testimony that Cushing provided before the commission was equally unenlightening.

Cushing did not remember any meeting of the cabinet with a delegation from the A.R.S. in January, 1907. This was in spite of the fact that Rutherford and Cross from the government and Cornwall, Faulkner, and Hawes from the A.R.S. all testified as to the occurrence of such a meeting and Cushing's presence at it. Cushing did remember meeting a delegation from the A.R.S. briefly on a train platform in Winnipeg in October 1907 but said that little was actually discussed. Upon returning to Edmonton he consulted Rutherford and then wrote the delegation to inform them that any applications for government assistance would be useless. Cushing did not have any further recollection of anything pertaining to the A.R.S.[54]

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[54]Evidence, pp. 2694-2706 (testimony of Cushing).

Cushing said that the first time he heard of Clarke's railway scheme was when he was approached by Waddell, along with Cecil Goddard and another engineer named Phillips, on the afternoon of November 13, 1908. This testimony was directly contrary to testimony given by Rutherford and Cross, both of whom said they were first approached about a railway by Clarke in Calgary in July, 1908. In fact, they said the cabinet, without exceptions, met Clarke and Bowen about potential railway development. Cushing stuck to his story, however, and continued to claim that he did not hear of Clarke's railway scheme until Clarke's engineers approached him on November 13, 1908.[55]

Cushing said that the general nature of the north country was the only topic of discussion at this initial meeting. A second meeting was set for later that evening although Cushing did not attend it. Instead, he sent J.W. Stocks and John Chalmers to represent the Department of Public Works at it. Cushing had little to reveal about the second meeting, owing to the fact that he denied attending it.[56]

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[55]Evidence, pp. 2707-2709, pp. 2772-2774, & pp. 2802-2804 (testimony of Cushing). Goddard and Phillips were two engineers that Clarke had commissioned independently to complete a reconnaissance survey of the north.

[56]Evidence, pp. 2709-2717 (testimony of Cushing).

Cushing then recalled a meeting of the cabinet with Clarke and Waddell on November 14, 1908. This was the first occasion upon which Cushing could recall meeting Clarke. Once again, Cushing's testimony was in direct contrast to testimony by Rutherford and Cross who claimed that the cabinet met Clarke in July 1908. Cushing further contradicted Cross' testimony about the granting of a bond guarantee. Cross claimed that the cabinet had already consented to the policy of a bond guarantee prior to the November 14, 1908 meeting and that only the amount of the guarantee was left undecided before the meeting. Cushing denied that anything regarding a bond guarantee was decided prior to the meeting.[57]

Cushing said he objected to $20,000 per mile being the extent of the guarantee but said his objection was overcome when it was explained to him that $20,000 per mile would be the maximum extent of the guarantee and by no means the total extent of it. Cushing said he was told that the government would guarantee 75-80% of the cost of construction of each mile up to a maximum guarantee of $20,000 per mile. He also could not remember the interest

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[57] Evidence, pp. 2718-2723, & pp. 2769-2771 (testimony of Cushing).

rate or the term of the guarantee being discussed at the meeting.[58] Once again, Cushing's testimony was in direct contrast to Rutherford and Cross.

Cushing said that Rutherford's railway policy was announced approximately ten days after the meeting with Clarke and Waddell. He confirmed that Rutherford had not told him that railways were to be removed from Public Works. In fact, he did not know of the transfer until he read about it in the newspapers.[59]

Cushing testified that there was no further discussion among the cabinet members about the A. & G.W. between November 14, 1908 (the date that Rutherford assured Clarke of government support) and February 25, 1909 (the date that the A. & G.W. legislation was passed). He said that although he was listed as the seconder on Rutherford's motion to incorporate the A. & G.W., he had little, if anything, to do with the legislation. He was hospitalized just prior to the passing of the legislation and did not attend the session at which it was passed. Rutherford may have brought a copy of the legislation to the hospital for

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[58] Evidence, pp. 2723-2729 (testimony of Cushing).

[59] Evidence, pp. 2731-2734 (testimony of Cushing).

him to read, but Cushing was too sick to read, let alone comprehend, it. Cushing noted that it was not unusual for Rutherford to list senior cabinet members, often without their explicit knowledge or consent, as seconders for motions that he introduced. He wanted it made clear, however, that any knowledge he had of the A. & G.W. legislation was arrived at after, not before, the legislation was passed.[60]

Cushing said that he had nothing to do with the A. & G.W. until a cabinet meeting that was held on September 14, 1909, at which time the specs of the proposed line were discussed. He said that he objected to the specs of the line and considered that they would result in a "very miserable road." There was nothing decided at the September 14, 1909 meeting and the line's specs were not discussed again until the following month.[61]

Cushing was not certain if he attended a cabinet meeting in regard to the A. & G.W. specs on October 7 or October 8, 1909 but thought the meeting was the latter date. This was in spite of testimony by Rutherford and Cross that

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[60]Evidence, pp. 2734-2736, & pp. 2775-2777 (testimony of Cushing).

[61]Evidence, pp. 2737-2740 (testimony of Cushing). The quote appears on p. 2737.

the meeting was on the 7th. In any case, Cushing said that the meeting he attended was very short, likely no longer than five minutes. He said that the standards of the C.N.R. main line were agreed to, but no copies of the specs were presented.[62] He was satisfied by this arrangement.

Cushing said that the letter from himself to Rutherford, objecting to the specs, was not written on October 7, 1909 (as it was dated), but was written and delivered to Rutherford on September 14, 1909. Cushing acknowledged that in his speech to the legislature following his resignation, he referred to a letter he wrote and delivered to Rutherford prior to a cabinet meeting on October 7, 1909. He said that he had been mistaken in doing so, for he later clearly recalled that the letter was really written and delivered on September 14, 1909; he was not even certain that there had been a cabinet meeting on October 7, 1909. Depending upon which date one believes, Cushing said that he did not offer any further objections about the A. & G.W. to Rutherford subsequent to this letter and prior to his resignation on February 17, 1910.[63]

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[62] Evidence, pp. 2744-2748, pp. 2788-2794, & pp. 2804-2805 (testimony of Cushing).

[63] Evidence, pp. 2741-2750, & pp. 2760-2768 (testimony of Cushing).

Cushing acknowledged that he had read in the newspapers that the A. & G.W. bonds were sold in early November, 1909 but had no explanation for why he waited two months to object to the sale. He said he was likely busy with, and distracted by, projects in the Department of Public Works, but could not say what the other projects were.[64]

There are numerous problems with Cushing's testimony. The most obvious problem has already been noted; on many occasions his testimony was contradicted not only by Cross and Rutherford, but also by members of the various railway syndicates interested in building a line from Edmonton to Fort MacMurray. The result is that one is left questioning either Cushing's memory or his honesty, neither of which is particularly flattering to the former Minister of Public Works from Calgary.

Another problem is that one can very easily question Cushing's motive for resigning from the Rutherford government. His letter of resignation, his subsequent speech to the legislature, and his testimony all indicated that he resigned because he was not told about the

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[64]Evidence, p. 2758, & p. 2794 (testimony of Cushing).

government's A. & G.W. policy. He said he would have never agreed to the policy if he had been informed about the details of it. There is a vast amount of evidence that indicates Cushing was kept informed of the government's railway policy regarding both the A.R.S. the A. & G.W. In fact, there was more evidence to indicate that he was informed than evidence to indicate that he was not informed. It is odd that Justices Scott and Harvey attached so little importance to the question of what Cushing knew and when. Cushing's evidence was so frequently contradicted that it is difficult to put much faith in the testimony that he gave. If Cushing was to be one of the key witnesses in the indictment of government members, it is easy to see why no indictment was forthcoming. One is left with the question then, of why did Cushing resign, if not for the reasons that he publicly stated.

Cushing testified that the last time he discussed the A. & G.W. at a cabinet meeting was in early October, 1909. He also testified that he read newspaper reports about the bond sale one month later. He explained the delay in his resignation by the fact that he was busy with other matters. He said he was only able to read all of the government's documents pertaining to the A. & G.W. a mere

week before the opening of the February 1910 session of the legislature. Cushing resigned when he realized that the government had made a deal that he could not approve of, and even more, had not been told about.

While Cushing's account of why he resigned is not totally beyond belief, there is another more likely reason that he did little to elaborate upon it. Rutherford personally took charge of the province's railway policy and removed it from Cushing's portfolio in November, 1908. It is ludicrous, however, to suggest that Cushing resigned fifteen months later on account of this policy change. Public Works may have been overworked, as Rutherford suggested, and in any event, Cushing offered his support for the transfer to Rutherford. Public Works still administered a full slate of policies even with the removal of railways from the department.

A motion on February 5, 1910, was far more damaging to the Department of Public Works. W.A. Buchanan announced that he would be taking over the administration of roads and bridges from Public Works. E. Trowbridge, Cushing's secretary, reported that Cushing had given no indication he was considering resigning until after Buchanan's announcement. Trowbridge reported that Cushing

angrily responded to the announcement by saying, "I am going after the whole bunch." The Department of Public Works was dealt a further blow when the initial steps were taken to remove telephones from its control. John Stocks, an engineer in Public Works, also testified that Cushing was very upset by the transfer of roads and bridges to Buchanan. Stocks did not know about the intended removal of telephones from the department; as a result he was not able to comment on Cushing's reaction to it. Thus, in slightly over one year Cushing witnessed the removal of railways, roads and bridges, and telephones from his department's jurisdiction.[65]

The question of why Public Works was stripped is difficult to answer; it is also not a question that this paper intends to deal with. The fact that it was stripped makes Cushing's moral outrage at the A. & G.W. deal a little less believable. Cushing may have resigned because the government made a bad business deal with Clarke, but it is difficult to reconcile his numerous statements that he was not kept informed about the details of the deal. It is more likely that he left the Rutherford administration because

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[65]Evidence, pp. 3158- 3159 (testimony of Trowbridge), & pp. 3135-3139 (testimony of Stocks).

the cornerstones of his department had been removed from his control.

Boyle's testimony followed Cushing's testimony but was very limited. It only amounted to seven pages of evidence and there was no cross-examination. The commission returned to Edmonton from Toronto on May 17, 1910, at which time Walsh announced that the commission would not meet on May 20th due to the funeral of King Edward VII but that there would be hearings held on Victoria Day. It was also announced that Rutherford, Cross, Cushing and Boyle would be the next witnesses heard, in that order, and that the commission intended to hear all of the testimony from government members prior to the recall of the House on May 26, 1910.[66] Boyle's testimony was cut short by the fact that he was not able to take the stand until the morning of May 26th. He was excused from testimony in order to attend the re-opening of the House.

It is understandable that Boyle was excused in order to attend the re-opening of the House. What is not understandable is why Boyle was not recalled to complete his testimony. The legislature only remained in session long

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[66]Evidence, pp. 2229-2230 (statement of Walsh).

enough to hear the announcement of the Rutherford's resignation; thus, there was no prolonged business for Boyle to attend to in the House. Walsh may have hoped to have completed the evidence from government members by May 26th, but originally it had been hoped that the commission would submit its final report by that date. Obviously the commission continued its investigation well after it became apparent that it could not submit its final report by the time that the House was recalled; there should not have been any reason to suspend Boyle's testimony because it was not completed by the same arbitrary deadline. There does not appear to have been any strict reason for not hearing evidence from government members after May 26th. Nonetheless, Boyle did not return, nor was he recalled, to give further testimony following this brief session of the legislature.

It is unfortunate that Boyle did not offer a full testimony. In many ways he was one of the essential actors in the A. & G.W. drama. There was conflicting testimony about whether or not he introduced the A.R.S. to the cabinet in January, 1907. Rutherford thought that either Boyle or McDougall introduced the delegation but Cross did not have any memory of Boyle's presence at the meeting. In his

testimony Boyle denied taking any part in the January 1907 meeting between the A.R.S. and the cabinet. He briefly acknowledged that he knew of Cornwall's interests in the A.R.S. but did not know of any other syndicate members until he met Hawes, Minty, and Woodman in Winnipeg, in March 1907. Boyle acknowledged that the A.R.S. members asked if he would speak to Frank Oliver about a Dominion subsidy for their railway. Boyle did so, but assured the syndicate that he carried very little weight with the Minister of the Interior. In fact, Boyle said some A.R.S. members voiced their disappointment to him about the approach that he made to Oliver on their behalf.[67] Boyle's testimony about these matters, however, was far from as complete as it could have been, or should have been, had the commission not run out of time.

In addition, there were many matters that Boyle could have been questioned about that were never even mentioned. For example, the Calgary Albertan insinuated that Boyle's sudden opposition to the Rutherford government was based upon the fact that he failed to receive a cabinet appointment which he expected following the election in

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[67] Evidence, pp. 2833-2839 (testimony of Boyle).

March, 1909. It is doubtful that Boyle would have testified about any lingering bitterness he may or may not have felt toward the Rutherford administration but the commission still might have done well to question his relations with the government. It was also alleged in the legislature that Boyle opposed the A. & G.W. deal because he had been unsuccessful in his application for the solicitorship of the company. It was not conclusively established in the legislature, however, that Boyle had even applied for the solicitorship, let alone been turned down for it. The commission could at least have asked Boyle about any professional relationship he may or may not have had with Clarke.

It is interesting that Boyle, as the M.L.A. for Sturgeon, opposed the deal. After all, the railway was intended to run through his district and his district could likely expect to benefit from the line. He may have opposed the line because he felt wronged by the government and/or the A. & G.W. Conversely, the fact that the line was planned for his constituency may have made Boyle keenly aware of its shortcomings. There is no conclusive evidence one way or the other, however, to suggest what Boyle's motives were in opposing the A. & G.W. deal. What is

conclusive is that the commission made no significant attempt to distinguish the full nature of Boyle's motives or his relationship to the A. & G.W.

The commission ran out of time in hearing Boyle's testimony but this was not a valid excuse for failing to hear the evidence of one of the key opponents of the A. & G.W. The commission began its hearings on March 29, 1910, nearly two full months before the House was recalled. As noted earlier, Rutherford, Cross, Cornwall, Cushing, Boyle and Bennett were the essential speakers in the debate in the legislature about the A, & G.W. All of these men made themselves available to the commission; there was no excuse for not hearing their testimony. Admittedly the commission had not planned on its detours to Winnipeg and Toronto, but the detours should not have been allowed to jeopardize the other evidence that it heard. The blame for failing to arrive at any consensus about the A. & G.W. must be shared by the Justices and the counsels who failed to avail themselves of all of the evidence that was at their disposal.

The same faults that the commission displayed in its handling of Boyle's evidence were also apparent in its failure to even call R.B. Bennett as a witness. There was

never any insinuation that Bennett had personally had any direct involvement in the A. & G.W. or the A.R.S. Thus, there was no need for the commission to hear Bennett's evidence about his own personal involvement. At the same time, however, it was also painfully clear that Bennett knew more about the A. & G.W. affair not only than most of the people in the province, but also most of the people in the legislature. His questioning in the legislature and before the commission often revealed tidbits of information that had not previously been public knowledge. For example, it was Bennett who revealed Cornwall's involvement in the A.R.S. to the legislature. He also uncovered the removal of files from Cross' office in his role as Counsel for the Insurgents before the commission. These are simply two out of numerous instances where Bennett exposed new material in the A. & G.W. affair. In short, Bennett knew a great deal about the A. & G.W. affair. For some unknown reason, however, the commission did not call upon him to share his knowledge through testifying before it.

Supporters of the A. & G.W. deal said that Bennett opposed the railway because he was a Calgary booster and opposed anything that would benefit Edmonton and the north. Others said that he opposed the A. & G.W. because he was a

solicitor for the C.P.R. and he was naturally opposed to competitive railways being built in the province. He was also accused of political posturing and opposing the A. & G.W. deal because it was negotiated by a Liberal government and he was a Conservative M.L.A. On the surface there might have been validity to these criticisms, but they do not stand up to closer scrutiny.

There are problems in explaining the split over the A. & G.W. in terms of sectional divisions. While Bennett was from Calgary, Boyle of Sturgeon, McDougall of Edmonton and Smith of Camrose also opposed the deal. In addition, Woolf of Cardston and Buchanan of Lethbridge City supported the government. While southern constituencies generally offered more resistance and northern constituencies generally offered more support for the A. & G.W., there was too much variation in the vote to explain anyone's vote in simply sectional terms. What was true for the whole was equally true for Bennett.

It is equally unfair to say that Bennett opposed the A. & G.W. simply because he worked for the C.P.R. The C.P.R. did not have any intention of building in Northern Alberta and it is unlikely that the C.P.R. would have considered the A. & G.W. competition to be feared. In fact

William Pearce of the C.P.R. wrote Bennett and informed him that he did not expect the A. & G.W. to have enough traffic in its first twenty years of operation to pay for axle grease.[68] It is doubful that the C.P.R. was very concerned with any competition that the A. & G.W. may have been able to muster. Finally, if one was going to make the case that Bennett opposed the A. & G.W. because of the fact that he was a solicitor for a rival railway, one would also have to explain how G.D. Minty, also a C.P.R. lawyer, became the solicitor for the A. & G.W. There simply is not enough evidence to indicate that Bennett's opposition to the A. & G.W. had its basis in his connection to the C.P.R.

Finally there is the case of Bennett's opposition being based solely on party lines. The obvious flaw in this assertion is that eleven Liberals, two Conservatives, one Independent, and one Independent Liberal voted against the government. The opposition to the A. & G.W. deal clearly transcended party lines. To credit anyone's opposition to the A. & G.W. simply to party lines would be mistaken. Once again, what is true of the whole is equally true of Bennett.

While Bennett's opposition to the A. & G.W. deal

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[68]William Pearce Papers, Accession #74.169, Box #8 (letter from Pearce to Bennett dated December 13, 1909).

was not solely coloured by any one of these issues, it may have been influenced to one extent or another by any combination of them, along with other unknown factors. His opposition may have been driven by the fact that he had conclusive proof that the A. & G.W. deal was corrupt or he may have had an intuition that the deal was bad. In any event, his motivations were not revealed before the commission; in fact there was no attempt made by the commission even to come to grips with his reasons for opposing the government. Had Bennett testified before the commission he could have been called upon to explain his rationale for opposing the A. & G.W. deal. He could have refuted allegations against himself. Bennett's opposition to the A. & G.W. made it obvious that he considered the entire affair to be corrupt; his testimony might have been able to assist the commissioners in arriving at the same conclusion. He did not testify, however, and commission was left without a unanimous conclusion.

The Royal Commission that was appointed to investigate the A. & G.W. met with little success in clarifying the controversial issues surrounding the railway. Much of the evidence that it heard focussed more on the internal relationships among W.R. Clarke's railway interests

than upon the involvement of government members or M.L.A.s in those interests. Although the commission was hampered by the failure of Clarke to provide evidence, it was hampered even further by the way it handled evidence that was available to it.

The commission did a very thorough job of examining J.K. Cornwall's relationship to the A. & G.W. and its predecessors, the A.R.C. and the A.R.S. Still, the commissioners were unable to agree on whether Cornwall remained interested in Clarke's railway enterprise after February, 1909. The commission actually heard more evidence about Cornwall's involvement in various railway syndicates prior to the time that he became an M.L.A. than for the time after his election to the legislature. In many ways the commission seemed satisfied with its thorough examination of Cornwall. It was as though it considered his involvement in the promotion of northern railways was the most important and contentious issue it could examine.

If anyone in the government appeared to have the opportunity to take a direct interest in the promotion of northern railways, it was C.W. Cross. Cross was involved with the A.R.C from its inception. He was also very close friends with Cornwall. Unlike Cornwall, who was only

elected to the legislature in March, 1909, Cross was a member of the Rutherford government from day one. Although Cross denied taking an active interest in his law firm after entering government, his firm did continue to represent Cornwall and later became the firm that represented the A.R.S. On the surface it would seem that Cross more than Cornwall should have been the target if one was to make the case that any government member or M.L.A. compromised himself or the legislature in the promotion of northern railways. The commission, however, obviously did not think so. It is also amazing that, given allegations of a cover-up, the commission did not even question Cross about the removal of 250 files from his office. The commission was supposed to investigate possible wrondoings by government members or M.L.A.s yet it did not even fully examine Cross on his relationship to various railway projects targetted for the north.

The commission did not uncover any evidence that Rutherford was in any way corrupt, but at the same time it noted that he may not have always made the wisest business decisions. There are not, however, obvious gaps in Rutherford's testimony as was the case with the testimony of Cross. Rutherford also did not have the circumstantial

associations with Cornwall, the A.R.C. and the A.R.S. that Cross had. In short, it is much more difficult to make a case for possible corruption against Rutherford than Cross. Rutherford's greatest fault may have been over-enthusiasism about building a railway in northern Alberta.

The commission also did a very poor job of examining why Cushing, Boyle and Bennett were so strongly opposed to the A. & G.W. deal. These three men certainly could have helped to clarify some issues for the commission if, in fact, their reasons for opposing the railway were justified. Cushing's testimony was so muddled, however, that it was at times difficult to believe. There is no apparent reason why the commission failed to hear the complete testimony of Boyle, even in light of the fact that his testimony was not completed at the time that the legislature was recalled on May 26, 1910. Unfortunately the commission spent little time in hearing Boyle's testimony and no time in hearing Bennett's testimony. Thus, the commission made almost no effort to understand why key opponents of the A. & G.W. deal actually opposed it. Given the testimony that the commission did not hear from Cross, Cushing, Boyle and Bennett, it is no wonder that it was unable to arrive at any conclusions about possible wrongdoing by government members or M.L.A.s.

CHAPTER THREE: LEGAL BATTLES

The legislature of the province of Alberta was recalled on November 10, 1910; it had a different composition from the one that had met six months earlier. The most obvious change was that A.L. Sifton replaced A.C. Rutherford as Premier of the province. In addition, former adversaries such as C.W. Cross and R.B. Bennett became allies in the debate about the government's expropriation of the proceeds of the A. & G.W. bond sale.

The Royal Commission that investigated the Alberta and Great Waterways Railway concluded its hearing of testimony on July 6, 1910. The commission's report was presented, along with Lieutenant-Governor Bulyea's throne speech, to the legislature when it was recalled on November 10, 1910. The Edmonton Capital, a strong supporter of C.W. Cross and the pro-A. & G.W. faction in the legislature happily noted that the commission report cleared all concerned of any charges of corruption and wrongdoing. The Edmonton Journal, which was more sympathetic to the anti-government forces, noted the commission exonerated the Rutherford government. It was, however, careful to note the contention of some M.L.A.s that the commission verdict would have been more appropriate had it been "not proven," rather than "not guilty." The Journal and the Bulletin each

printed the full transcripts of the commission report the day after the report was tabled while the Capital offered more editorial comment. In spite of this coverage, however, there was surprisingly little response to the tabling of the long awaited report. There was no mention of the report or its findings in any of the newspapers after November 11, 1910.[1]

In his opening speech E.M. Michener, the newly chosen leader of the Conservative Party, joked about the election slogan of "Rutherford, Reliabilty and Railways." He also congratulated Bennett and the government members who had stood up and opposed the A. & G.W, deal in the previous legislature. He concluded by criticising the government for offering vast amounts of assistance to railways but comparatively little in the way of assistance to farmers.[2]

A.L. Sifton followed Michener. He commented upon Michener's speech, but did not make any direct reference to either the A. & G.W. or the report of the Royal Commission. There was really very little of interest to note in Sifton's opening speech to the legislature.[3]

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[1] E.B., 11/10/10 & 11/11/10; E.C., 11/10/10 & 11/11/10; & E.J., 11/10/10 & 11/11/10.

[2] E.B., 11/15/10; E.C., 11/15/10; C.H., 02/15/10.

[3] E.B., 11/15/10; E.C., 11/15/10.

The seemingly lackadaisical attitude of Sifton brought forth a mocking response from Bennett. Bennett joked that there were 20,000 reasons, each worth one hundred cents on the dollar that could explain why Sifton left his post as Chief Justice of the province. In a more serious vein, he noted that Sifton had become Premier because of the A. & G.W. Bennett was amazed, therefore, that Sifton did not even mention the A. & G.W. in his opening speech in the legislature. Six months had passed since the controversy was at its height yet the government did not have any comment to offer on the whole affair.[4]

Bennett's comments typified the inquiring, yet puzzled, attitude of the Insurgent M.L.A.s toward the A. & G.W. early in the November 1910 session of the legislature. No one in government made any attempt to clarify the government's position with regard to the A. & G.W. There was no significant comment made regarding the report of the Royal Commission, the resignation of Rutherford and appointment of Sifton as Premier, or anything else related to the A. & G.W. affair. While the A. & G.W. was mentioned it was only in an almost offhanded fashion. This was a strange turn of events for an issue that had created such a furor only six months earlier.

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[4] E.B., 11/15/10; E.C., 11/15/10.

The lull was short lived. As early as November 17th there were rumors that Sifton planned to repudiate the government's A. & G.W. deal. There were warnings in the press that further political turmoil was on the horizon if the new Premier enacted such a policy. There were suggestions that there were divisions within the Liberal caucus regarding the policy and it was expected that a rift between Sifton and Cross would only grow if the government attempted to expropriate the proceeds from the A. & G.W. bond sale. It was feared that rather than closing the breach in the Liberal Party, Sifton's policy would only widen it.[5]

The Bulletin warned that Sifton would pay with his political life if he looked to expropriation as a way of solving the A. & G.W. problem. The Capital and the Journal were more concerned that cancelling the A. & G.W. meant cancelling Edmonton's dreams of an empire to the North. They considered it essential that the money that had been approved to build the line from Edmonton to Fort MacMurray be used as it was intended. They objected vociferously to the notion that Sifton might use the money to pay the province's debt or commission public works elsewhere.[6]

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[5] E.C., 11/17/10-11/19/10 (inclusive); E.J., 11/17/10-11/19/10 (inclusive); E.B., 11/18/10. Also see L.G. Thomas, The Liberal Party, p. 109.

[6] E.B., 11/18/20; E.C., 11/19/10 & 11/20/10; & E.J., 11/19/10 & 11/24/10.

Sifton, in fact, did end his outwardly lackadaisical attitude toward the A. & G.W. with the introduction of the rumored legislation. The legislation amounted to the government's expropriation of the proceeds from the A. & G.W. bond sale. The act did not cost the Premier his political life, as the Bulletin had predicted, but it did encounter vocal opposition. Sifton noted that the A. & G.W. had defaulted on the construction of the line. It had also defaulted on the payment of the interest on its bonds and the province had become responsible for paying the interest. He reasoned, therefore, the proceeds of the bond sale should be made part of the public revenue of Alberta, free and clear of all A. & G.W. claims. Sifton argued that the bill was simply the foreclosure of an agreement for the non-fulfilment of the contract. He stressed that the legislation did not mean the repudiation of the province's responsibility to the bond holders; it simply meant that the A. & G.W. would not have any call upon the proceeds from the bond sale.[7]

Sifton's legislation was remarkable in many ways. Boyle's original motion of censure against the government for its A. & G.W. deal had been roundly criticised for its

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[7] E.B., 11/26/10; E.C., 11/26/10; E.J., 11/26/10; & C.H., 11/26/10.

clause advocating the expropriation of A. & G.W. funds. As a result, his motion was amended and the expropriation clause was removed. It was believed, in February 1910, that neither supporters nor opponents of the government's A. & G.W. deal would support a total repudiation of the government's A. & G.W. contract. Although Sifton was not a member of the legislature prior to the November session, it is strange that he would propose a solution that had earlier been discarded because it lacked supporters. It is also ironic that Sifton, as leader of the Government proposed a solution that only six months earlier had been advocated by one of the most vocal leaders of the Insurgent group that so strongly opposed the government.

There is one further remarkable feature to Sifton's legislation. C.W. Cross, J.L. Cote, J.K. Cornwall, R.B. Bennett, A.C. Rutherford, A. Bramley-Moore, Robert Patterson, W.F. Puffer, C.M. O'Brien, E.M. Michener, and George Hoadley all spoke on the bill. None of them supported it. Michener and Hoadley offered an amendment which still advocated foreclosure but in more measured terms than Sifton proposed. Sifton rejected their amendment, arguing that it was time for action, not for moderation. It is remarkable that not one speaker in the legislature other than Sifton supported his bill. It is even more remarkable that his bill passed.

The opponents of the bill made strong cases. Their arguments generally fell into one of three categories. Some speakers maintained that the development of the north would be severely hindered it if the A. & G.W. line was not built. Others spoke of the sanctity of a contract. Although the A. & G.W. deal may have been a bad one, there was no basis for repudiating it. Finally there were those M.L.A.s who objected that the government had not proven the case for expropriation.[8]

C.W. Cross led the speakers who referred to the merits of the north and expressed concern that repudiating the A. & G.W. deal would further delay the construction of a railway into northern Alberta. He did not offer any apologies for the policies of the previous administration; the only mistake that he would admit was in foreseeing great cities on both the Peace and Athabasca rivers. He said he was sorry to oppose the new Premier on his first legislation, but saw no other alternative.[9]

J.L. Cote, M.L.A. for Athabasca, took a position

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[8]Thomas, The Liberal Party, p.111, noted the first two categories of opposition, but not the third. There was, nonetheless, significant opposition to the fact that no one other than Sifton spoke to defend the legislation.

[9]E.B., 11/26/10; E.C., 11/26/10; E.J., 11/26/10; & C.H., 11/26/10. The E.C. offered especially glowing praise for Cross' speech. Also see Thomas, The Liberal Party, pp. 110-111.

that was similar to that of Cross. Cote argued that the line had been approved two years earlier and that the government must ensure the line would be built, even if it repudiated the A.& G.W. contract. Like Cross, he spoke of the merits of the north. In concluding, he noted:

> I am satisfied that the district of Athabasca will support millions of people at some future time and the people who are making a business of libelling that country are, at all events, doing very unpatriotic work.[10]

J.K. Cornwall's speech covered much the same ground that Cross and Cote had already taken up. He spoke glowingly about the merits of the north. He also said it was wrong for the government to repudiate the A. & G.W. deal when most of them had been elected on a platform supporting the line. He concluded by noting that he would never forgive himself for encouraging the district of Athabasca to enter the province of Alberta in the event that the line was not built.[11]

R.B. Bennett followed Cornwall and, although he took a different tack from the one taken by Cross, Cote, and Cornwall, he united with them in opposing Sifton's

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[10] E.B., 11/29/10; E.C., 11/29/10; & C.H., 11/29/10. The quote was taken from the C.H. The full speech was later reprinted in the E.C., 12/07/10.

[11] E.B., 11/30/10; E.C., 11/30/10; & C.H., 11/30/10. Also see Thomas, The Liberal Party, p. 111.

legislation. Bennett concentrated on the potential damage Sifton's legislation would do to the province's credit and reputation in financial circles, rather than focussing on the potential damage to the development of the north. Bennett believed that Sifton was attempting to secure something for the province that did not belong to it. He noted that the Royal Commission had not found any indication of fraud involved in the A. & G.W. deal, but simply that the deal was not a very good one. Bennett argued that funds could not be confiscated simply because a bad deal had been made. Discredit, dishonour and disgrace were the only results the province could expect in enacting such a policy. He feared that a policy of repudiating contracts would place Alberta in the company of a country such as Nicaragua. Bennett said that he held nothing but contempt for Clarke but he did not think that the province's good name should be sacrificed in order to punish Clarke. A deal, however bad it was, was still a deal, and a deal entered into needed to be honoured.[12]

A. Bramley-Moore, M.L.A. for Alexandra, Robert

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[12] E.B., 12/01/10; E.C., 12/01/10; E.J., 12/01/10; & C.H., 12/01/10. The E.J. offered especially strong praise for Bennett, calling his speech the "greatest oration of his life." The following day the E.C. questioned Bennett's consistency in strongly opposing the A. & G.W. six months earlier yet objecting to legislation intended to punish the company, 12/02/10. Also see Thomas, The Liberal Party, p. 112.

Patterson, M.L.A. for Macleod, and W.F. Puffer, M.L.A. for Lacombe all took a third tack. They argued that it was difficult to see the merits of the bill when no one other than Sifton had spoken in favour of it. The only arguments the House had heard were from opponents of the bill. All three men indicated a disposition to support the Premier, but did not think they could do so unless supporters of the legislation explained their positions. It was reported that even strong supporters of the government were questioning whether they could support Sifton's bill. In spite of their pleas, however, no one stepped forth to speak in favour of the bill.[13]

There were signs that E.M. Michener and George Hoadley, Conservative M.L.A.s from Red Deer and Okotoks respectively, were prepared to offer qualified support to Sifton. They were not opposed to the principle of foreclosure; they simply did not think Sifton was taking the proper measures in enacting the policy. Michener claimed that any person or business was entitled to foreclosure hearings; the A. & G.W. was no exception. He claimed that Sifton was acting in a "czarlike" manner and showing a greater disrespect for Clarke than Clarke had shown in not

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[13] E.B., 12/02/10; E.C., 12/02/10; E.J., 12/02/10; & C.H., 12/02/10.

attending the Royal Commission hearings. Michener argued that the A. & G.W. appeared to be in a conciliatory mood and prepared to negotiate the transfer of the contract back to the government. He proposed an amendment to Sifton's bill that still advocated foreclosure, but in more measured terms. Hoadley seconded the amendment, noting that nothing could justify dishonest means of government.[14]

Sifton was not prepared to accept the amendment or the modified support of Michener and Hoadley. He believed that the time for negotiations was past. He said that Clarke's correspondence attempting to negotiate a settlement had arrived too late. Clarke had all summer to make his case, yet did nothing until the fall. Moderation may have been needed before Clarke defaulted; it was no longer needed since Clarke defaulted. Sifton confidently predicted that there was little danger of legal action involving Clarke or the banks in which the bond proceeds were deposited. He denied that he was against the construction of a railway in the north. In fact, Sifton believed that the removal of Clarke and the A. & G.W. would likely accelerate rather than impede the construction of such a line.[15]

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[14] E.B., 12/03/10; E.C., 12/03/10; E.J., 12/03/10; & C.H., 12/03/10.

[15] E.B., 12/03/10; E.C. 12/03/10; E.J., 12/03/10; & C.H., 12/03/10/.

Sifton's comments brought an effective end to the debate on his motion. Objections were made to a "party dictatorship" where only the Premier spoke in favour of the bill and his supporters silently voted their approval. In spite of such objections no other members of the House stepped forward to defend Sifton's legislation. The Premier did have one further brief exchange with Bennett in which Bennett claimed the money rightfully belonged to the A. & G.W. while Sifton claimed the money belonged to the people of Alberta. Essentially, however, the debate on the bill was completed. A vote was taken and remarkably the bill was passed by a margin of 25-14. Surprisingly the passing of the bill caused little comment on the part of the press.[16]

The government dealt with one other legislative measure that related to the A. & G.W. It was a bill to enable the government to pay all reasonable and fair claims against the A. & G.W. The question was raised about whether people who dealt with the A. & G.W. were even entitled to a government bailout. There was also some debate about whether contractors who dealt with the A. & G.W. were any more entitled to government charity than farmers who

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[16]Only one of the four newspapers consulted noted that the A. & G.W. bill had gone to third reading (E.B., 12/06/10). One other newspaper reported in a small trailer that the A. & G.W. bonds "passed also." (C.H., 12/09/10.) No coverage was given of the actual vote, or its breakdown.

experienced crop failure. In reality, however, there was very little debate about the bill and it was passed December 14, 1910.[17]

There was no other legislation proposed that related to the A. & G.W. The House was prorogued on December 16, 1910, and Sifton's first session as Premier was brought to a close. With the close of the session the A. & G.W. ceased to be a matter of much importance in the Alberta legislature.

While the A. & G.W. ceased to be an issue in the legislature, it did not die as an issue altogether. Sifton's confidence that the banks would not force the issue of expropriation into the courts was ill-founded. On December 17, 1910, it was reported that Attorney General C.R. Mitchell entered action against the Dominion Bank, the Union Bank, and the Royal Bank for payment to the province of the proceeds of the A. & G.W. bond sale. The Dominion Bank and Union Bank had deposits of $400,000 and $1,000,000 respectively. The Royal Bank was in possession of $6,000,000 of A. & G.W. money.

The fight to expropriate the money was a long, drawn out affair. In January 1910 the Dominion Bank and

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[17] C.H., 12/14/10.

Union Bank applied for interpleader status. The application meant that these banks became non-parties in the lawsuit, leaving the defense to the Royal Bank. There was speculation that the Royal Bank continued the fight because it had already advanced approximately $370,000 to the A. & G.W. It objected to the province's request that the bank turn over the full amount of the original $6,000,000 deposit because it was no longer in possession of the full amount of the original deposit. The Dominion Bank and Union Bank had not advanced money to the A. & G.W. Thus, they were prepared to avoid taking an active part in the lawsuit.[18]

The Royal Bank, however, was not prepared to defend its position alone, even though the Dominion Bank and the Union Bank were not co-defendants. It made an application to have the A. & G.W. Railway Company, the Canada West Construction Company, the Standard Trust Company, and the J.P. Morgan Company listed as parties to the government's legal action. This application was heard by Justice N.D. Beck and he rendered his decision on February 9, 1911. He reasoned that the A. & G.W. and C.W.C. should be bound by any decision that was arrived at in the case of the Royal Bank v. The King. In addition, Beck said that the A. & G.W. and C.W.C. should have any and all

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[18] E.B., 01/10/11.

opportunities made available to them in order to oppose the government's legislation. Thus, he allowed the A.. & G.W. and C.W.C. to be added as co-defendants. Beck refused to add the Standard Trust Company as a co-defendant unless the company requested such status and said that any representation of the J.P. Morgan Company would be covered by the Standard Trust Company.[19]

The government appealed Beck's decision on the grounds that a plaintiff should be allowed to decide who a suit was entered against. The appeal was heard by Chief Justice Horace Harvey, and Justices C.A. Stuart, D.L. Scott, and W.C. Simmons; their decision was read on April 1, 1911.[20]

While the Justices did not agree with Beck's rationale for allowing the A. & G.W. to be added as co-defendants, they did, nonetheless, allow his order to stand. Chief Justice Harvey noted that simply adding the companies as co-defendants did not automatically make them bound by any decision of the court. He also noted that the Royal Bank, not the A. & G.W. or C.W.C., requested the co-

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[19]On Beck's hearing of the application see The Alberta Law Reports: Cases Determined in the Supreme Court of Alberta, Vol III, 1910-1911, pp. 480-484.

[20]On the appeal of Beck's Decision see Alberta Law Reports, Vol. III, 1910-1911, pp. 484-496. Hereafter cited as Appeal of Beck's decision.

defendant status. Therefore Harvey reasoned Beck was incorrect in granting the application based on the desire of the A. & G.W. and/or C.W.C. to oppose the legislation. The intentions of these companies was not known at the time of Beck's decision. Thus, Harvey's initial judgement was to overturn Beck's ruling and not allow the A. & G.W and C.W.C. to stand as co-defendants.[21]

The subsequent ruling of Justice Stuart and the concurrence of Justices Scott and Simmons convinced Harvey to alter his decision. Stuart acknowledged that he did not agree with the rationale for Beck's decision, but he refused to overturn it. He said, however, that subsequent indications by the A. & G.W. and C.W.C. that they wanted to be party to the government's lawsuit made him consider it illogical to remove them from the action. In addition, he expected the litigation involving the proceeds of the A. & G.W. bond sale to be very protracted. He feared that later court decisions could be appealed if all interested parties were not involved in the litigation from its beginning. In Stuart's words, "While I think the order was made upon wrong ground....I am unable to conclude it was absolutely wrong." Scott and Simmons agreed with Stuart. Given the opinion of

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[21]Appeal of Beck's Decision, pp. 485-489.

the other three Justices, Harvey reversed his original decision.[22] The result was that Beck's original judgement stood; the A. & G.W. and the C.W.C. joined the Royal Bank as co-defendants against the government's legal action.

After the question of which parties would be involved in the lawsuit was decided, the case of the legality of the government's legislation was heard by Justice Stuart. Stuart's decision was announced on November 4, 1911.[23]

Stuart did not see any basis for the argument that the legislation should be disallowed because the province did not have the right to enact legislation that affected persons beyond the limits of its jurisdiction. He reasoned that the government had already enacted legislation that affected people beyond its jurisdiction with the acts that incorporated the A. & G.W. and guaranteed its bonds. If the province could lay the foundation for a business venture, it also had the right to take the foundation away.[24]

Stuart also dealt with the question of whether or

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[22]Appeal of Beck's Decision, pp. 489-496. The quote from Stuart appears on p. 493.

[23]See the reasons for Justice Stuart's decision in The Alberta Law Reports, Vol. IV, Oct. 1911-June 1912, pp. 254-263. Hereafter cited as Stuart's Decision.

[24]Stuart's Decision, pp. 255-256.

not the legislation was *ultra vires* because it dealt with banking legislation and in doing so was in conflict with the Bank Act. He decided that the legislation was not *ultra vires*. He said that the Royal Bank received the A. & G.W. deposit with a full knowledge of the conditions attached to it. Further, he noted that the money was simply deposited in a bank as a matter of convenience. He did not know how the government's spending the money for any purpose other than what was originally intended could be contrary to the Bank Act. It was not for banks to decide how deposits were to be spent.[25]

Stuart also denied that the assignment of the proceeds of the bond sale from the A. & G.W. to the C.W.C. placed the money beyond the grasp of the government. He noted that the proceeds of the bond sale were deposited to the credit of the Provincial Treasurer of Alberta. The A. & G.W. was to receive money only after a government engineer certified that construction on sections of the line was completed. The A. & G.W. could only assign the proceeds of the bond sale to the C.W.C. *in futuro*. Since no government certificates had been issued verifying the construction of the line, the A. & G.W. did not yet control the funds which it attempted to assign to the C.W.C.[26]

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[25]Stuart's Decision, pp. 258-259.

[26]Stuart's Decision, p. 260.

Stuart also denied that any bank, railway company, or construction company had any lien or claim on the proceeds of the bond sale. He noted that the legislation guaranteeing the A. & G.W. bonds stipulated that the provincial treasurer of Alberta was to receive the money and accrued interest from the bond sale "without any set-off, counter-claim or other deduction, whatsoever." Thus, Stuart denied that Sifton's legislation should be disallowed because it revoked a lien that the Royal Bank had upon the money.[27]

While Stuart's decision was a victory for the Sifton government, it did not end the legal battle over his legislation. The defendants appealed to the Alberta Supreme Court. The appeal was heard by Chief Justice Harvey, and Justices Scott, Beck, and Simmons. Their decision was announced on April 13, 1912.[28]

Once again the Justices noted that the defendants claimed the legislation was *ultra vires* because it was outside of the realm of provincial jurisdiction to offer legislation that dealt with non-inhabitants of the province.

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[27] Stuart's Decision, p. 261.

[28] On the appeal of Stuart's decision see, Alberta Law Reports, Vol IV, Oct. 1911-June 1912, pp. 263-310. The reports of the Justices who heard the appeal will hereafter be cited individually as: Harvey's Decision (pp. 263-279); Scott's Decision (pp. 279-284); Beck's Decision (pp. 284-297); & Simmons' Decision (pp. 297-310).

The defendants also claimed that the legislation was contrary to the Dominion's Bank Act because it altered a time deposit to a demand deposit, it destroyed a banker's lien, and it destroyed the effect of a valid assignment under the Bank Act. Finally the defendants claimed that the legislation was *ultra vires* because it used confiscation as a means to raise public revenue.[29]

The four Justices that heard the appeal essentially confirmed the findings that Justice Stuart had announced in the lower court. There were some differences among the Justices about the amount of interest the Royal Bank should be required to pay to the province in turning over the proceeds of the bond sale. Justice Beck also noted that he personally held, "a strong repugnance to the Act on ethical, political, and economic grounds." Still, Beck was not able to agree with the defendants that there was a legal basis for disallowing Sifton's legislation. Even given small differences among the Justices that heard the appeal, none of them were able to contradict Stuart's original decision that Sifton's legislation was not *ultra vires*, and should not be disallowed.[30]

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[29]Harvey's Decision, p. 267; Scott's Decision, pp. 280-283; Beck's Decision, p. 291; & Simmons' Decision, pp. 297-298.

[30]Harvey's Decision, Scott's Decision, Beck's Decision, & Simmons' Decision, passim. Beck's quote is on page 297.

The Alberta Supreme Court was not, however, the final stop in the legal battle over the Alberta government's legislation to expropriate the proceeds of the A. & G.W. bond sale. It was appealed from the Alberta courts to the Judicial Committee of the Privy Council in London, England. Lord Chancellor Haldane, Lord Macnaghten, Lord Atkinson, and Lord Moulton heard the appeal. Their decison was announced by Lord Chancellor Haldane on January 31, 1913.[31]

The arguments that the defendants presented in their appeal to the Privy Council were the same as the arguments presented to the lower courts. They continued to insist that the legislation was *ultra vires*. Unlike the lower courts, however, the Privy Council determined that the Alberta government's legislation was, in fact, *ultra vires*.

The Privy Council cited the precedent established in Wilson v. Church in which a foreign government attempted to revoke concessions made to a railway company upon finding that the line was not built. In that case the trustees of the railway argued that it was not totally apparent that the line could not still be built. It was acknowledged that the government could revoke its concessions to the original railway company. It was also acknowledged, however, that

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[31]"Royal Bank of Canada v. The King," Western Law Reporter, Vol. XXIII, January-April, 1913, pp. 315-324. Hereafter cited as Privy Council Decision.

the government must continue to endeavor to have the line built. In the event that the government did not endeavor to have the line built and attempted to use the funds of the company for alternate projects, it was determined that the bondholders were entitled to request the return of their investments. The bondholders had advanced their funds in order to finance a specific project; if this project was not undertaken they were entitled to the return of their funds.[32]

The precedent of Wilson v. Church was applied to the court battle that had dogged the government's action against the Royal Bank. The Privy Council decided that the Alberta government's legislation to expropriate the proceeds of the A. & G.W. bond sale exempted the banks from their legal obligations to return the funds to the bondholders. The legislation was *ultra vires* because it infringed upon the civil rights of bondholders who resided outside the province and it was not within the rights of the province to do so. Having already determined that the legislation was *ultra vires*, the Privy Council did not deal with the questions regarding banking legislation or the raising of public revenue through the confiscation of private property.[33]

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[32]Privy Council Decision, p. 323.

[33]Privy Council Decision, pp. 323-324.

The decision by the Privy Council meant that Sifton's legislation to expropriate the proceeds of the A. & G.W. bond sale was disallowed. The legislation, however, was not totally rejected. The Privy Council had affirmed the right of the province to repudiate its contract with the A & G.W. Railway Company. This meant that the government was justified in cancelling any possible claim that the A. & G.W. may have held to the money. In essence, it meant that W.R. Clarke had legally become a non-entity in the project. In this regard the verdict was a victory for the Alberta government.

The Privy Council's decision also meant, however, that the government was not allowed to place the funds from the bond sale into public revenues and spend them as it deemed appropriate. The funds had been raised in order to construct a railway line from Edmonton to Fort MacMurray; it would have to be refunded to the bondholders if such a project was not carried out. Although the decision clarified the legalities of the case, the issue of the proceeds from the A. & G.W. bondsale nonetheless remained in a quagmire. Clarke could not access the funds but neither could the Alberta government unless it actually had the line from Edmonton to Fort MacMurray built.

The result was that the government was still left

searching for a remedy to its problems. On September 22, 1913, it was announced that the government would comply with the decision of the Privy Council and repeal the legislation that had attempted to confiscate the proceeds of the A. & G.W. bond sale. Premier Sifton also expressed renewed hope that a solution to the A. & G.W. problem would soon be affected.[34]

One day later a copy of a letter from J.D. McArthur to Sifton offering to take over construction of the line was printed in the newspapers. McArthur was already the promoter of the Edmonton, Dunvegan & British Columbia Railway (E.D. & B.C.). His offer was the reason for the renewed hope that the A. & G.W. controversy would finally come to a close. He offered to build the line to the specs of the E.D. & B.C. McArthur proposed the construction of additional lines in the event that the distance from Edmonton to Fort MacMurray was less than 350 miles. Under the terms of his proposal the government would be responsible for interest on the bonds up to the time that McArthur took over the line and all claims against the line would be properly settled in due course. McArthur also asked for an extension in the time allowed to build the line

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[34] E.B., 09/22/13; E.C., 09/22/13; & E.J., 09/22/13.

until December 31, 1915.[35]

The policy that Sifton later outlined amounted to the enactment of McArthur's proposals. While admitting that the terms of the proposed legislation were not significantly different from McArthur's proposal, the Premier hoped that the legislation would provide a solution that would satisfy the people of the province. He noted that McArthur was a proven railway builder in the province. He also noted that the arrangement had been submitted to all of the financial people concerned and that it met with their approval. Sifton was especially happy with the arrangement because it revitalized $7,400,000 that had been effectively frozen since November, 1909.[36]

Sifton's new legislation, which embodied McArthur's offer was not without its opposition, even though R.B. Bennett was no longer a member of the House. T.M. Tweedie, Conservative M.L.A. from Calgary Centre, objected that the government was allowing McArthur to take over what had been a questionable contract in the first place. He said that he would need to know more about McArthur's associates before he approved of the deal. He also wondered

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[35] E.B., 09/23/13; E.C., 09/23/13; & E.J., 09/23/13.

[36] E.B., 09/30/13; E.C., 09/30/13; & E.J., 09/30/13.

what assurances there were, if any, that W.R. Clarke was not a silent partner of McArthur.[37]

George Hoadley continued the Conservative attack upon the legislation. He noted the similarities between Sifton's negotiations with McArthur and Rutherford's negotiations with Clarke. In each case the Premier essentially concluded an agreement and only afterwards was it submitted to the legislature for ratification.[38]

The debate about Sifton's legislation was lengthy but did not really advance beyond the arguments presented by Sifton, Tweedie and Hoadley. The government consistently argued that the proposed solution was the only one available in light of the decision by the Privy Council in London. If the government hoped to spend the $7,400,000, it would have to do so by contracting to have a railway built between Edmonton and Fort MacMurray. The opposition consistently argued that the new A. & G.W. deal was no better than the original one. In addition they questioned the validity of McArthur's offer to take over the line.

The most startling feature about the debate regarding McArthur's takeover of the A. & G.W. was not the

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[37] E.B., 09/30/13; E.C., 09/30/13; & E.J., 09/30/13.

[38] E.B., 10/01/13; E.C., 10/01/13; & E.J., 10/01/13.

debate itself. Instead, it was the breakdown of the vote on the legislation. The measure was carried by a vote of 36-19. All of the Liberal members of the House voted for the measure and all of the Conservative members voted against it. The Liberal Party was united about policy regarding the A. & G.W. for the first time since February 1909. A consensus was finally arrived at regarding how the government would have the railway from Edmonton to Fort MacMurray constructed, which at the same time excluded W.R. Clarke from the deal. One of the most divisive political issues of the day, and one which had nearly resulted in the self-destruction of the Liberal Party, was finally mastered.

CONCLUSION

The dispute that erupted over the Alberta and Great Waterways Railway was the greatest political controversy that the young province of Alberta witnessed to that time. It shook the foundations of a once strong Liberal majority in the province and directly contributed to the resignation of A.C. Rutherford from the office of Premier of the province. While Rutherford's successor, A.L. Sifton, was able to maintain the Liberals' position in power, their majority never again reached the heights that had been attained prior to the A. & G.W. controversy. Although the brunt of the political controversy was played out in 1910, the A. & G.W. remained a source of irritation for the Sifton government and the province generally until late 1913.

The province's problems began with the refusal of the C.N.R., the G.T.P. and C.P.R. to take up the task of completing a railway from Edmonton to Fort MacMurray. Undaunted, the government turned to a previously unknown railway promoter from Kansas City, W.R. Clarke, to build the line. The optimism of the day dictated that the line needed to be built, and the province was not about to bide its time waiting for a more well known promoter to build the line.

There was little in the way of objection to the government's deal with Clarke when it was passed during the

February 1909 session of the legislature. The calm, however, was not a sign of things to come; the A. & G.W. became a source of great division during the subsequent session of the legislature in February 1910.

The debate that arose centered upon the quality of the deal that the government had negotiated with Clarke. Opponents of the deal noted that the A. & G.W. had received more substantial guarantees, while completing less work on its line, than any other railway for which the Alberta government guaranteed bonds. They also questioned the need to construct the line, especially at the inflated prices. The quality of the farmland to be opened up for settlement needed to be questioned if the higher costs were justified by the difficult terrain that the line would traverse. At the same time, the existence of difficult terrain to be traversed needed to be questioned if the line really did open prime farmland for settlement. Either the line was not needed as much as the government thought, or it should not have cost as much as the government's guarantees. The defenders of the government never really were able to answer these objections to the province's A. & G.W. deal.

The debate in the legislature also proved that the government knew pitifully little about W.R. Clarke's operations. It knew nothing of Clarke's flip-flop in providing $50,000 paid up capital for the A. & G.W. It also

knew nothing of Clarke's negotiations to have the line built or his rumored $500,000 in unspecified expenses. In addition, the government knew nothing of the Canada West Construction Company that B.R. Clarke incorporated and W.R. Clarke contracted with to build the line. Finally it had no knowledge of Clarke's efforts to float the A. & G.W. bonds or the subsequent offering of the bonds for 10% higher than the province realized on the original sale of them. In short, the government only knew that it had guaranteed $7,400,000 worth of bonds at 5% interest for fifty years and little else.

The debate resulted in a seemingly irreconcilable split in the legislature. Although the debate indicated that the government had made a questionable business deal at best and a bad one at worst, it did not prove whether any government members were guilty of graft or corruption regarding the deal.

A Royal Commission was established to address the question of wrongdoing by government members or M.L.A.s just prior to the adjournment of the badly divided House. Although the commission heard over 3200 pages of testimony it proved no more capable of answering this question than the legislature before it. The Justices that sat on the commission were not even able to offer a unified report in the wake of the commission's hearings. Justice Harvey and

Justice Scott noted that the motives of Premier Rutherford and Attorney General C.W. Cross needed to be questioned even if it was not proved conclusively that they had been corrupt. While corruption was not proven, the authors of the majority report of the commission were veiled in their clearing of the government in regard to its A. & G.W. deal. Conversely Justice Beck did not see any indication of corruption on the part of any government member or M.L.A.

It is not surprising that no unanimous conclusions were forthcoming from the commission. Although the testimony that the commission heard was extensive, it was far from complete. The most obvious gap in the evidence that the commission heard was the failure of W.R. Clarke to testify. It was not, however, the damning gap in the commission's evidence. Instead the commission was doomed to uncertainty by its own inability to question fully the witnesses that appeared before it.

The evidence heard indicated that the most questionable act committed within the Attorney General's office was the late night removal of approximately 250 files from C.W. Cross' office. The commission, however, totally neglected to even ask Cross about the removal of files from his office or the contents of the files. This oversight was odd, especially given complaints in the legislature that the files the government had tabled with regard to the A. & G.W.

were incomplete. It is unknown whether the files would have condemned Cross or even if they related to the A. & G.W. Given that the files were removed during the height of the A. & G.W. controversy, however, it seems impossible that the commission did not question the Attorney General about them. The failure of the commission to even mention the removal of files from his office to Cross necessarily meant it could only have a less than complete picture of his actions as Attorney General.

The commission also did a very poor job of finding out why W.H. Cushing, J.R. Boyle and R.B. Bennett were as strongly opposed to the deal as their actions in the legislature indicated. While none of these men were accused of corrupt involvement in the A. & G.W., all must have had their own reasons for opposing the government. Had the commission heard the reasons for their condemnation of the A. & G.W. deal, it might have been better able to offer a decision of its own. Unfortunately the commission only heard full testimony from Cushing and his testimony was muddled at best. Boyle and Bennett had proved in the legislature to be two of the most eloquent opponents of the government's deal yet they offered even less insight into the controversy than Cushing. The commission stopped its examination of Boyle in the initial stages in order to allow for the recall of the legislature on May 26, 1910. The

House, upon hearing the resignation of Premier Rutherford was then re-adjourned. Boyle, for no apparent reason, was never called upon to complete his testimony and the result was a tremendous gap in the evidence that the commission heard. Equally baffling was the failure of the commission to even call R.B. Bennett as a witness. Although Bennett was appearing before the commission as counsel for the Insurgents, he never offered his own sworn testimony. The result was that perhaps the staunchest opponent of the government's A. & G.W. deal did not offer the commission the reasons for his opposition. Given these obvious gaps in the evidence that the commission heard, it is not surprising that the Justices were unable to arrive at any unanimous conclusions.

Thus, the Royal Commission was unable to unravel the controversy that enveloped the A. & G.W. and the task fell to Rutherford's successor, A.L. Sifton. Sifton's first act as Premier was to introduce legislation to confiscate the proceeds of the A. & G.W. bond sale. Instead of solving the government's A. & G.W. problems the legislation simply shifted the controversy to the courts. It was announced in December 1910 that the government would take legal action against the Royal Bank, the Dominion Bank and the Union Bank in order confiscate the A. & G.W. funds. Through a series of legal decisions and appeals a final decision was not

arrived at until January 1913. At that time the Privy Council announced that the Alberta government's confiscatory legislation would be disallowed on the grounds that it was *ultra vires*. Given that Sifton's legislation was ultimately disallowed, a solution to the government's A. & G.W. problem remained to be found.

One was finally arrived at during the September 1913 session of the legislature when it was announced that J.D. McArthur had offered to take over the A. & G.W. contract. While the Conservative opposition remained opposed to such a solution, the Liberal members of the House unanimously agreed to support it. Three years of bitter division over the A. & G.W. within the Liberal party was finally at an end. Ground was broken on the new A. & G.W. in December 1913, although it was not until the end of the decade that the line actually approached Fort MacMurray.

The A. & G.W. controversy was finally at an end. The battle over the A. & G.W. was not without its far reaching effects. It resulted in the resignation of A.C. Rutherford and C.W. Cross as Premier and Attorney General respectively. Cross, however, was able to recover from the political setback that the A. & G.W. presented. He was re-elected in Edmonton in the April 1913 election and later elected M.L.A. for the constituency of Edson in the June 1917 and July 1921 elections. He did not run in any

elections after the 1921 election. He served as Attorney General from May 1913 until March 1919. Thus, Cross served as Attorney General under Premier Rutherford, Premier Sifton, and his successor, Premier Charles Stewart. Although Cross recovered from the controversy, Rutherford's prominence in public office was effectively at a close. He lost his seat in the April 1913 election, the first election since the A. & G.W. controversy broke, and never stood for election again.

W.H. Cushing, who claimed he resigned his portfolio of Public Works over the A. & G.W., never stood again for election in Calgary. Likewise, J.K. Cornwall, who had been one of the key targets of the Insurgent's wrath, never stood again for election in Peace River.

J.R. Boyle, a leader of the Insurgents, emerged from the controversy relatively unscathed. He was elected in his home constituency of Sturgeon up to and including the June 1917 election. Although defeated in Sturgeon in the July 1921 election, he was able to win a seat in Edmonton in the same election. Boyle did not stand for any elections after July 1921. He served as Minister of Education under Premier Sifton and Premier Stewart from May 1913 until March 1919. In March 1919 Boyle succeeded Cross as Attorney General, a position he held until the defeat of the Liberal government at the polls in July 1921. Boyle was later

appointed to the Alberta Supreme Court in 1924.

The A. & G.W. controversy did not have any significant long term effects upon the political career of R.B. Bennett. Bennett made his maiden term his only term in the Alberta legislature. He resigned from the Alberta legislature and was elected to the House of Commons in the federal election of 1911. He served as Minister of Justice and Attorney General under Arthur Meighen in 1921. He later became Meighen's Finance Minister in the short-lived government of 1926. Bennett succeeded Meighen as leader of the federal Conservative Party in 1927 and later became Prime Minister of Canada in 1930.

Thus, the A. & G.W controversy had varying effects upon the careers of the men involved in seeing it played out. For men like Ruhterford, Cushing, and Cornwall, the A. & G.W. meant the end of their political careers. For others, like Cross, Boyle and Bennett, the controversy had seemingly little or no effect.

The A. & G.W. controversy also resulted in the re-arranging of the Alberta Supreme Court. The appointment of A.L. Sifton as Premier created a vacancy as Chief Justice of the province which was filled by Horace Harvey. Harvey had been a member of the Royal Commission that investigated the A. & G.W. controversy. Harvey's position as a Supreme Court Justice was subsequently filled by W.L. Walsh, who had been

one of the counsels for the Royal Commission.

There was also fallout from the controversy aside from the political results. The railway boom that characterized the time when the A. & G.W. was initially contracted for effectively ended with the outbreak of World War I and the economic crisis that later faced the C.N.R and G.T.P. In addition, the influx of settlers that charcterized pre-World War I times virtually ended with the war. A railway line from Edmonton to Fort MacMurray was no longer viewed as desirable or necessary as it had been in 1908. As noted earlier, the line did not approach Fort MacMurray until the end of the decade. It never achieved the financial success that had been hoped for in 1908 and eventually was made part of the network of railways that made up the Northern Alberta Railways system.

BIBLIOGRAPHY

PRIMARY SOURCES.

Archival Collections

Provincial Archives of Alberta

Department of Attorney General: General Administration Files (Accession #66.166).

Department of Attorney General Records (Accession #75.126).

Department of Attorney General Administrative Services (Accession #83.192).

Department of Attorney General Administrative Services Division: Files Maintained By C.W. Gross as Attorney General, 1908-1910. (Accession #83.210).

Executive Council: A Collection of Letters of Resignation Written By Various Alberta Premiers and Cabinet Ministers, 1909-1917. (Accession #70.257).

Legislative Assembly: Sessional Papers Tabled in the Legislative Assembly of Alberta Between 1908 and 1960. (Accession #70.414).

Legislative Assembly: Records Taken From the Legislature Vaults. (Accession #70.427).

Legislature Library Collection: Legislative Debates. (Accession #74.1, Items #274-306).

Legislative Library Collection: Evidence Taken By Royal Commission re Alberta and Great Waterways Railway Company. (Accession #74.1, Items #322 A-C).

Legislative Library: Copies of the Royal Commission Report on the Alberta and Great Waterways Railway Company. (Accession # 76.504).

Letters, Addresses, Articles, etc. of Alexander Cameron Rutherford. (Accession #75.518).

University of Alberta Archives

William Pearce Papers

Alexander Cameron Rutherford Papers

Published Government Documents

Alberta. Legislative Assembly. Journals.

Alberta. Report of the Royal Commission on the Alberta and Great Waterways Railway Company. 1910.

Statutes of Alberta.

Newspapers and Periodicals

Alberta Law Reports.

Calgary Albertan.

Calgary Herald.

Edmonton Bulletin.

Edmonton Capital.

Edmonton Journal.

Western Law Reports.

SECONDARY SOURCES

Artibise, A.F.J. (ed.) Town and City: Aspects of Western Canadian Urban Development. Regina: Canadian Plains Research Center, 1981.

-------. "Boosterism and the Development of Prairie Cities, 1871-1913." In Town and City.

-------. Prairie Urban Development. Ottawa: Canadian Historical Association Booklets, 1981.

-------, and G.A. Stelter. Canada's Urban Past: A Bibliography and Guide. Vancouver: University of British Columbia Press, 1981.

Babcock, Douglas R. A Gentleman of Strathcona: Alexander Cameron Rutherford. Calgary: University of Calgary Press and the Friends of Rutherford House, 1989.

Brown, R.C. and Ramsay Cook. Canada 1896-1921: A Nation Transformed. Toronto: McClelland and Stewart Ltd., 1974.

Eagle, J.A. The Canadian Pacific Railway and the Development of Western Canada, 1896-1914. Kingston and Montreal: McGill-Queen's University Press, 1989.

Friesen, Gerald. The Canadian Prairies: A History. Toronto: University of Toronto Press, 1984.

Glazebrook, G.P. de T. A History of Transportation in Canada. Toronto: The Ryerson Press, 1938.

Hall, D.J. Clifford Sifton: A Lonely Eminence 1901-1929. Volume 2. Vancouver: University of British Columbia Press, 1985.

Hedges, J.B. The Federal Railway Land Subsidy Policy of Canada. Cambridge: Harvard University Press, 1934.

Innis, H.A. A History of the Canadian Pacific Railway. Toronto: University of Toronto Press, 1923.

Jackman, W.T. Economic Principles of Transportation. Toronto: University of Toronto Press, 1935.

Macaulay, Frederick R. The Movements of Interest Rates, Bond Yields and Stock Prices in the United States Since 1856. New York: National Bureau of Economic Research, 1938.

Macgregor, J.G. A History of Alberta. Edmonton: Hurtig Publishers, 1972.

-------. "Peace River Jim: Apostle of the North." Unpublished manuscript deposited at the Provincial Archives of Alberta. Accession #84.378, Box #4, Item #39.

Mackintosh, W.A. Economic Problems of the Prairie Provinces. Volume IV of Canadian Frontiers of Settlement. Ed. W.A. Mackintosh and W.L.G. Joerg. Toronto: Macmillan Company of Canada, 1935.

Rasporich, A.W. and H.C. Klassen. Frontier Calgary: Town City and Region 1875-1914. Calgary: McClelland and Stewart West, 1975.

Regehr, T.D. The Canadian Northern Railway: Pioneer Road of The Northern Prairies 1895-1918. Toronto: Macmillan Company of Canada, 1976.

-------. "The Canadian Northern Railway: The West's Own Product." Canadian Historical Review, volume 51, (June 1970), pp. 177-187.

-------. "William Mackenzie, Donald Mann, and the Larger Canada." In Western Canada Past and Present. Ed. A.W. Rasporich. Calgary: McClelland and Stewart West, 1975.

Schneider, Ena, Ribbons of Steel: The Story of the Northern Alberta Railways. Calgary: Detselig Enterprises Ltd., 1989.

Skelton, O.D. The Railway Builders: A Chronicle of Overland Highways. Toronto: Glasgow, Brook and Company, 1916.

Stevens, G.R. Canadian National Railways. Volume 2. Vancouver: Clarke, Irwin and Company Ltd., 1962.

Thomas, L.G. The Liberal Party in Alberta: A History of Politics in the Province of Alberta 1905-1921. Toronto: University of Toronto Press, 1959.

-------. "The Liberal Party in Alberta, 1905-1921." Canadian Historical Review, volume 28, (December 1947), pp. 411-427.

Voisey, Paul. Vulcan: The Making of a Prairie Community. Toronto: University of Toronto Press, 1988.

-------. "Boosting the Small Prairie Town, 1904-1931: An Example From Southern Alberta." In Town and City.

Zaslow, Morris. The Opening of the Caradian North 1870-1914. Volume XVII of The Canadian Centenary Series. Ed. W.L. Morton and D.G. Creighton. Toronto: McClelland and Stewart Ltd., 1971.

VITA

NAME: JAY STEWART HEARD

PLACE OF BIRTH: EDMONTON, ALBERTA

YEAR OF BIRTH: 1965

POST-SECONDARY EDUCATION: MASTER OF ARTS, UNIVERSITY OF ALBERTA, 1990

BACHELOR OF ARTS (FIRST CLASS HONOURS) UNIVERSITY OF ALBERTA, 1988.